

AGENDA

Thursday September 27, 2018 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2018-97

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

II. PUBLIC HEARING *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Frist Reading of Ordinance No. _____ Amending Chapter 7.03 of the Clackamas County Code Relating to Gates within the Public Right-of-Way (Nate Boderman, County Counsel, Mike Bays, Department of Transportation & Development)

III. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of an Intergovernmental Agreement between the Housing and Community Development Division and the City of Gladstone for E. Clarendon Street Improvements in Gladstone – *Housing & Community Development*
2. Approval of Amendment No. 1 to Intergovernmental Agreement 155318 with the State of Oregon Department of Human Services, for the Operation of the Supplemental Nutrition Assistance Program (SNAP) Employment & Training – *Community Solutions*
3. Approval of Multiple Agency Services Agreements with Home Energy Suppliers for Reimbursement of Energy Supplies on Behalf of Low-Income Households – *Social Services*
4. Approval of Amendment No. 6 to Intergovernmental Agreement 44-0571 with Multnomah County Department of Human Services, Aging & Disability Services Division – *Social Services*
5. Approval of Amendment No. 12 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County – *Public Health*

6. Approval of Amendment No. 2 of a Revenue Intergovernmental Agreement with Oregon Department of Human Services, Office of Vocational and Rehabilitation Services – *Health Centers*

B. Department of Transportation & Development

1. Board Order No. _____ Adopting the Vacation of a Non-Maintained Local Access Road
2. Approval of Amendment No. 1 to the Special Public Works Financing Contract with Oregon Infrastructure Authority for Construction of Improvements to Last Road

C. Finance Department

1. Approval of a Lease Agreement by and between Glenn and Glenna Butler and Clackamas County for the District Attorney's Office
2. Approval of the Purchase of Annual Technical Support Services from Oracle America, Inc. – *Procurement*

D. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Approval of a Cooperative Agreement with Employers Overload Temp Agency for Payroll Solution for Election Board Workers – *Clerk – via Procurement*

E. Public & Government Affairs

1. Approval of an Intergovernmental Agreement between Clackamas County and the City of Lake Oswego Regarding Payment for Services Related to the Willamette Falls Locks
2. Approval of an Intergovernmental Agreement between Clackamas County and the City of Oregon City Regarding Payment for Services Related to the Willamette Falls Locks

F. County Counsel

1. Resolution No. _____ Appointing the Board of County Commissioners as the Local Board of Health
2. Approval of a Settlement Agreement in the Case of Swanson v. Clackamas County Sheriff's Office, et al

G. Business & Community Services

1. Approval of the Oregon Business Development Department Brownfields Redevelopment Fund Grant Contract
2. Board Order No. _____ Approving a Tax Foreclosed Property for Declaration as Surplus

IV. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of an Intergovernmental Agreement with Oak Lodge Water Services District (OLWSD) for the Boardman Wetland Project

V. WATER ENVIRONMENT SERVICES

1. Approval of an Intergovernmental Agreement between the City of Happy Valley and Water Environment Services for Establishment and Administration of Reimbursement Districts

VI. COUNTY ADMINISTRATOR UPDATE

VII. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. <https://www.clackamas.us/meetings/bcc/business>



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

First Reading of Ordinance No. _____
Amending Chapter 7.03 of the County Code

Purpose/Outcome	To amend the Code to implement new policy related to gates within the public right of way.
Dollar Amount and Fiscal Impact	No change.
Funding Source	N/A.
Duration	Permanent.
Previous Board Action/Review	Policy Session- 8/7/18.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government
Contact Person	Mike Bays, Survey Group Supervisor, (503) 742-4667 Nate Boderman, Assistant County Counsel, (503) 655-8364

Oregon Revised Statutes (ORS) 368.056 authorizes the Board of County Commissioners to issue permits to allow for the construction of a gate on a public road under the jurisdiction of the county. This authorization also includes the authority to "... impose any conditions or specifications on the permit it determines advisable to preserve the purposes of the public road".

Clackamas County Code Section 7.03.090(M) contains the County's existing regulations regarding the authorization of gates on public roads. Under the County Code, gates are to be allowed only under the most "extraordinary circumstances". The process for issuing gate permits under 7.03.090(M)(1) is as follows:

1. No person shall install or allow the presence of any gate that blocks access to a road right-of-way unless:
 - a. The person has made application to the Board, describing the reasons for construction of the proposed gate, and has paid the required application fee;

b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an opportunity to describe their concerns regarding construction of the gate; and

c. The Board has approved the placement of the gate and issued a permit for the gate's construction pursuant to ORS 368.056.

In the event a gate permit is issued, 7.030.090(M)(2)(c) limits the duration of the permit, which are renewable in five-year increments.

Department of Transportation and Development staff are asking the board to consider two changes to Clackamas County Code Section 7.03. The first change would add a requirement to 7.03.090(M)(1)(a) whereby 100% of those property owners that access from or adjoin the road right-of-way to be gated must provide consent as part of the application to the Board. This is being added to ensure those primarily affected by the proposal are aware of the application. The second change would remove the requirement in 7.03.090(M)(2)(c) that an approved gate permit be reviewed every five years. Instead, staff is requesting that authorized gate permits only be reviewed when there is a change of conditions which may warrant removal of the previously authorized gate.

The changes in this section of the county code reflect somewhat the road vacation process, which also requires consent from affected landowners and a hearing before the board (in certain circumstances). The change should also dissuade the installation of gates on public roads except in the most extraordinary circumstances, thus furthering the purpose of the County Code restrictions related to gate authorizations. Finally, these changes should help staff and the Board of County Commissioners use time more efficiently by only reviewing those gate proposals which are in line with the intent and purpose of 7.03.090(M).

In addition to the ordinance and code language changes that are attached to this report, staff has included documents that have been distributed to members of the public initiating the process to apply for a gate permit. If the Board adopts the changes proposed by staff, these documents that have been used in the past, along with the attached gate permit, would be updated to reflect the new policy.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners hold this public hearing and schedule a second reading of this ordinance on October 11, 2018.

Sincerely,

Mike Bezner
Assistant Director, Department of Transportation and Development

Attachments: Ordinance Amending Clackamas County Code Chapter 7.03
Gate Policy Handout
Gate Application Form
Gate Petition Form
Gate Consent Form
Gate Permit

ORDINANCE NO. _____

An Ordinance Amending Chapter 7.03 of the Clackamas County Code

WHEREAS, this matter coming before the Clackamas County Board of County Commissioners at its regularly scheduled public meeting on October 11, 2018 to consider changes to Chapter 7.03 of the County Code pertaining to gates within the public right of way.

WHEREAS, Chapter 7.03 of the County Code contains standards and requirements for the application by members of the public to install and maintain a gate that blocks access to a road right of way; and

WHEREAS, Chapter 7.03.090(M) of the County Code states that gates are allowed only under the most extraordinary circumstances; and

WHEREAS, to ensure those primarily affected by the proposal are aware of any gate application that could impact access to their property, Clackamas County desires to add a requirement to Chapter 7.03.090(M)(1)(a) whereby 100% of those property owners that access from or adjoin the road right-of-way to be gated provide consent as part of the application to the Board; and. The second change would remove the requirement in 7.03.090(M)(2)(c) that an approved gate permit be reviewed every five years. Instead, staff is requesting that authorized gate permits only be reviewed when there is a change of conditions which may warrant removal of the previously authorized gate; and

WHEREAS, to increase efficiencies by only reviewing approved gate permits when there is a change of conditions which may warrant removal of the previously authorized gate, Clackamas County desires to remove the requirement in 7.03.090(M)(2)(c) that an approved gate permit be reviewed every five years; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 7.03 of the County Code is hereby amended as shown in Exhibit A, hereto attached.

Section 2: This ordinance shall be effective on January 9, 2019

ADOPTED this 11th day of October, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

TITLE 7

VEHICLES AND TRAFFIC

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TITLE 7

VEHICLES AND TRAFFIC

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Chapter 7.01

7.01 VEHICLE PARKING AND TOWING

7.01.010 Definitions

This chapter incorporates the definitions set out in the Oregon Vehicle Code (ORS chapters 801 to 822), or elsewhere in Oregon statutes, except:

- A. AUTHORIZED OFFICER means the Sheriff, any Sheriffs Deputy, or any other person expressly authorized by the Clackamas County Sheriff to issue parking citations or order vehicles towed under this chapter.
- B. VEHICLE means every device in, upon, or by which any person or property is, or may be, transported or drawn upon any street or highway, and includes any hulk or component thereof, including, but not limited to campers, recreational vehicles, motor homes, pickup trucks, pickup truck canopies, and trailers, except devices:
 - 1. Designed to be moved exclusively by human power; or
 - 2. Designed to be used exclusively upon stationary rails or tracks.
- C. BOOT means a device placed over the wheel of a vehicle which prevents the vehicle from being moved.
- D. HEARINGS OFFICER means the Parking and Towing Hearings Officer designated to hold hearings, make decisions and act on behalf of the Board of County Commissioners in accordance with this chapter.
- E. LAW ENFORCEMENT OFFICER means any police officer, sheriff, sheriff's deputy, medical examiner, deputy medical examiner, or probation officer.
- F. THE SHERIFF means the Clackamas County Sheriff, or any of the Sheriff's deputies or any person appointed by the Sheriff pursuant to ORS 204.635. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]
- G. RESIDENTIAL AREA means an area zoned as an urban or rural residential district under section 300 of the Clackamas County Zoning and Development Ordinance. [Added by Ord. 02-2005, 8-17-05]
- H. COMMERCIAL AREA means an area zoned as a commercial district under section 500 of the Clackamas County Zoning and Development Ordinance. [Added by Ord. 02-2005, 8-17-05]
- I. INDUSTRIAL AREA means an area zoned as an industrial district under section 600 of the Clackamas County Zoning and Development Ordinance. [Added by Ord. 02-2005, 8-17-05]

7.01.020 Parking Restrictions Enforceable by Citation and Fine

- A. No vehicle shall be parked, stopped, or left standing in violation of ORS 811.550 to 811.560, or 811.570 to 811.575.
 - B. No vehicle shall be parked upon any County roadway in a location within twelve feet of any mailbox used for pickup or delivery of the United States mail.
 - C. No trailer shall be parked upon any County highway unless it is attached to a motor vehicle by which it may be propelled or drawn. This paragraph shall not
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- apply to trailers which are disabled to such an extent that the driver cannot avoid temporarily leaving the disabled trailer on the highway, provided that the trailer must be removed within seven days. This paragraph also shall not apply to trailers owned or operated under authority of the State or County when necessary to perform work on the roadway.
- D. No vehicle shall be parked upon any County highway in violation of “No Parking” signs or markings, where the Director of the Clackamas County Department of Transportation and Development, or designee, authorizes such signs or markings,.
 - E. No vehicle shall be parked upon any County roadway adjacent to any yellow curb, where the Director of the Clackamas County Department of Transportation and Development, or designee, authorizes such curb.
 - F. No vehicle shall be parked upon any County roadway in a manner such that less than 18 feet of unobstructed roadway width is left available for the passage of other vehicles.
 - G. No vehicle shall be parked upon any County highway in a manner other than parallel to the roadway and facing in the direction of travel of the nearest travel lane unless specifically designated by signs or markings which are authorized by the Director of the Clackamas County Department of Transportation and Development, or designee.
 - H. No vehicle shall be parked in violation of ORS 811.615 (failure to display disabled parking permit), ORS 811.625 or 811.630 (unlawful use of disabled parking permit).
 - I. No vehicle shall be parked on any County highway for more than 72 hours without moving at least three vehicle lengths away.
 - J. No vehicle shall be parked where it is impeding or likely to impede the normal flow of vehicular, bicycle, or pedestrian traffic; where it is a hazard or is likely to be a hazard to vehicular, bicycle, or pedestrian traffic; or where it is obstructing the required width of a fire apparatus access road.
 - K. No vehicle shall be parked or operated on a highway when the vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway. [Codified by Ord. 05-2003, 7/13/00; Amended by Ord. 06-2003, 4/10/03]
 - L. No person shall use any vehicle or trailer to camp in or live in while parked upon a County roadway or highway in a residential area, commercial area, or industrial area. [Added by Ord. 02-2005, 5-19-05]

7.01.030 Person in Violation, Affirmative Defense

- A. A person commits the violation of illegal parking, stopping, or standing if:
 - 1. The person parks, stops, or leaves standing a vehicle in a place where such action is prohibited by this chapter; or
 - 2. The person is the owner of an unattended vehicle parked in a place where such parking is prohibited by this chapter.
 - B. An authorized officer who finds a vehicle standing upon a highway in violation
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of this chapter may move the vehicle, cause it to be moved, or require the driver or other person in charge of the vehicle to move it. The authority to take such action under this section is in addition to the authority granted under section 7.01.080.

- C. It is an affirmative defense to the prosecution of the owner of a vehicle under subsection A.2. of this section, that the owner did not authorize the use of the vehicle, either expressly or by implication.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.040 Citation

- A. When any authorized officer finds a vehicle parked in violation of this chapter, the authorized officer may issue a citation to the owner or operator of the vehicle. The authorized officer issuing a citation shall:
1. If the operator is present, issue the citation to the operator; or
 2. If the operator is not present, affix one copy of the citation to the vehicle and mail another copy to the owner(s) or other person(s) who reasonably appear to have an interest in the vehicle within 72 hours, Saturdays, Sundays, and holidays excluded. Additional citations shall not be issued for the same violation on the same vehicle unless at least 24 hours have passed since the previous citation.
- B. The citation shall contain the following information:
1. A description of the specific violation alleged;
 2. The date, time and location of its occurrence;
 3. The amount of the fine for the violation alleged;
 4. That the fine must be paid or a hearing requested within 14 days, and that upon failure to do so within 14 days, opportunity for a hearing is forfeited, and the fine doubles;
 5. A form for either admitting the violation alleged and paying the fine, or denying the violation alleged, paying the equivalent bail, and requesting a hearing;
 6. The address to which the form should be sent; and
 7. The telephone number of the person or facility which may be contacted for information.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.050 Fines

- A. Fines in an amount set by resolution of the Board of County Commissioners shall be assessed for each violation of Section 7.01.020.
- B. Each fine or the equivalent bail must be paid within 14 days of the date the citation is issued or the fine shall be doubled.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 06-2003, 4/10/03]

7.01.060 Response to Citations

Upon receiving a citation under this chapter, the vehicle owner(s) or operator may:

- A. Within 14 days, deliver to the Sheriff the form provided with the citation, admitting the violation(s), forfeiting and paying the amount of the fine(s) indicated on the citation; forfeiture may be made by mail but must be actually received by the Sheriff within 14 days from the date of the citation; or
- B. Within 14 days, deliver to the Sheriff the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation; response may be made by mail, but must be actually received by the Sheriff within 14 days from the date of the citation.

Upon receipt of a denial, the Sheriff's Department shall inform the Hearings Officer, who shall set a hearing within 30 days of the Sheriff's receipt of the denial and bail, and shall notify the vehicle owner(s) and any other person who reasonably appears to have an interest in the vehicle; notification of the hearing date, time and place shall be mailed within 15 days of the Sheriff's receipt of the denial and bail.

- C. Failure to perform any part of either subsection A or B, including failure to respond within 14 days, shall be presumed an admission of the violation(s) cited, and the fine(s) shall be doubled.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.070 Violation Hearing Procedure

- A. The hearing shall afford a reasonable opportunity for the person(s) requesting it to present evidence that the citation was invalid or unjustified.
 - B. The Hearings Officer may administer oaths and take the testimony of witnesses. The Hearings Officer may issue subpoenas in accordance with Oregon Rules of Civil Procedure 55, provided that subpoena requests be received in writing no later than 5 days before the scheduled hearing. If the person charged with the violation(s) requests a subpoena, the person shall pay a deposit for each witness in an amount set by resolution of the Board of County Commissioners. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court, to be paid by the person requesting the subpoena.
 - C. A person who receives a citation may be represented by an attorney or other person at any hearing, provided that in the case of representation by an attorney, the person gives written notice to the Hearings Officer two days prior to the hearing so that the County may, at its discretion, arrange for representation by an attorney on its behalf.
 - D. If the Hearings Officer, after due consideration, determines that the violation(s) alleged has been established, then the Hearings Officer shall issue a decision that the citation is valid and make brief findings of fact, and shall order the person cited to pay the appropriate fine to the County general Fund. The decision and order may be oral and issued at the conclusion of the hearing, but in all cases must be recorded in the record of the hearing. The Hearings Officer will also determine
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the amount of witness fees to be paid out of any deposit, or refunded.

E. The decision of the Hearings Officer is final.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 06-2003, 4/10/03]

7.01.080 Towing Without Prior Notice

The Sheriff may, without prior notice, order a vehicle towed when:

- A. Three or more parking citations have been issued for violations of sections 7.01.020 or 6.06.11, which have not been paid or contested within the time allowed by law;
 - B. The Sheriff has probable cause to believe that the vehicle operator is driving uninsured in violation of ORS 806.010;
 - C. The vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway;
 - D. The vehicle is parked on property owned, operated, or occupied by the County, other than highways or clearly designated public parking spaces, without express County permission;
 - E. A boot has been affixed to the vehicle for more than 10 days; fines, boot fee, or bail have not been fully paid, and a hearing has not been requested pursuant to section 7.01.160;
 - F. The Sheriff has probable cause to believe the vehicle is stolen;
 - G. The Sheriff has probable cause to believe that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to obtain or preserve such evidence;
 - H. The vehicle was in possession of a person taken into custody by any law enforcement officer, and towing of the vehicle appears to the officer to be the most reasonable disposition of the vehicle which is available;
 - I. The vehicle alarm system disturbs, injures, or endangers the peace, quiet, comfort, repose, health or safety of the public or any person, if no other reasonable disposition of the vehicle can be made and the owner cannot be contacted by reasonable efforts;
 - J. The vehicle is impeding, or likely to impede, the normal flow of vehicular, bicycle, or pedestrian traffic; the vehicle or is a hazard or is likely to be a hazard to vehicular, bicycle, or pedestrian traffic; or the vehicle is obstructing the required width of a fire apparatus access road;
 - K. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles, or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or is prohibited during a construction project defined by designated hours or days;
 - L. The Sheriff has probable cause to believe that the vehicle operator is driving while suspended or revoked in violation of ORS 811.175 or 811.182;
 - M. The Sheriff has probable cause to believe that the vehicle operator is operating a
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- vehicle without driving privileges, or in violation of license restrictions, in violation of ORS 807.010;
- N. The Sheriff has probable cause to believe that the vehicle operator, at or just prior to the time the Sheriff stops him or her, is driving under the influence of intoxicants in violation of ORS 813.010;
- O. The Sheriff has probable cause to believe that the vehicle operator, at or just prior to the time the Sheriff stops him or her, is speed racing on a County highway, in violation of ORS 811.125;
- P. The vehicle is parked, stopped, or left standing in any County park area after the daily closing time and before the daily opening time, or in violation of any “No Parking” signs or markings authorized by the Park Supervisor, or otherwise in violation of the Clackamas County Park Rules Chapter;
- Q. The Sheriff has probable cause to believe the driver of the vehicle has been fleeing or attempting to elude a police officer (ORS 811.540), and the vehicle is abandoned by the driver; or
- R. The Sheriff has probable cause to believe the driver of the vehicle has failed to perform the duties of a driver when property damaged or persons injured (ORS 811.700 or 811.705), and the vehicle is abandoned by the driver.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.090 **Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]**

7.01.100 **Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]**

7.01.110 **Notice After Tow**

After a vehicle has been towed under this chapter, notice shall be provided as set forth in ORS 819.180, which provides as follows:

“ORS 819.180 Notice after removal; method; contents. (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by certified mail within 48 hours of the removal, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

“(2) Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

“(a) That the vehicle has been taken into custody and removed, the identity of the appropriate authority that took the vehicle into custody and removed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and removed.

“(b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.

“(c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

“(d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.

“(e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

“(f) The time within which a hearing must be requested and the method for requesting a hearing.

“(g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority.”

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.120 Vehicle Inventory and Report

- A. Every vehicle impounded by the Sheriff’s office shall have its contents inventoried as soon as practical after impoundment is ordered. An inventory of an impounded vehicle is not a search for evidence of criminal activity. The purpose of the inventory is:
1. To protect private property located within impounded vehicles;
 2. To prevent or reduce the assertion of false or spurious claims for lost or stolen property; and,
 3. To protect people and property from any hazardous condition, material, or instrumentality that may be associated with an impounded vehicle.
- B. Areas of an impounded vehicle to be inventoried shall include:
1. The entire passenger compartment including but not limited to:
 - a. Any pockets or storage areas found on doors or seats;
 - b. Any console areas between seats or in the dash;
 - c. Under floor mats and under seats;
 - d. Any other areas that are part of the vehicle and designed to store items.
 2. Hatchback areas;
 3. Glove boxes;
 4. Trunks;
 5. Car-top containers.
- C. Closed containers that are found within an impounded vehicle shall be inventoried as follows:
1. The following containers shall be opened and their contents inventoried:
 - a. Containers normally used to carry money and/or valuables.
Examples include, but are not limited to; money bags, deposit
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- bags, purses, coin purses, wallets, billfolds, money belts, fanny packs, briefcases, and computer cases;
 - b. Clear containers. This includes any container the content of which can be viewed in whole or in part without opening the container; and
 - c. Containers that appear to contain hazardous or other materials imminently harmful to persons or property.
 - 2. Where a container is not otherwise subject to being opened, the deputy shall seek consent to open the container to inventory its content and shall inquire if the container contains any valuables. If proper consent is obtained or if the container is identified as containing valuables it shall be opened and the contents inventoried. Otherwise the container shall be listed in the inventory as a container with a description of its outward appearance.
 - D. Any locked compartment described in subsection B of this section or locked container subject to inventory under subsection C of this section shall be unlocked and inventoried if the keys are available and will be released with the vehicle to a third party towing company, or, an unlocking mechanism is located within the vehicle.
 - E. Any valuables and/or weapons found within an impounded vehicle shall be entered into an evidence locker for safe keeping unless returned to their owner.
 - F. Reports to be completed by deputy:
 - 1. Any items seized during an inventory (including; valuables, firearms, contraband, and evidence of criminal activity) shall be listed on a Property- In-Custody (PIC) report. A copy of the PIC report shall be given directly to the owner or operator of the vehicle, or, if such a person is not present, shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle.
 - 2. Regardless of whether any items are seized, a Property Evidence/Vehicle Inventory Report (PE/VI Report) shall be completed and signed by a deputy and given to the registered owner and to any other person(s) who reasonably appear(s) to have an interest in the vehicle. If no such person is present when the vehicle is towed, a copy of the report shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle. The PE/VI Report shall include:
 - a. The reason for the tow;
 - b. The name of the company towing the vehicle;
 - c. The name of the company or agency having custody of the vehicle for storage; and,
 - d. A list of the contents of the vehicle.
 - e. Responses to questions asked under subsection C(2).
 - G. Severability. If any clause or provision within this code section is declared unconstitutional or invalid for any reason, the remaining portion of this section shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.
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- H. Nothing in this section shall be construed as limiting or restricting the authority of a deputy to engage in searches and seizures for purposes other than the inventory of impounded vehicles.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03; Amended by Ord. 06-2009, 12/18/08]

7.01.130 Affixing Boot Without Prior Notice

The Sheriff may, without prior notice, order a boot placed on a vehicle when:

- A. Three or more parking citations have been issued for violations of sections 7.01.020 or 6.06.11, which have not been paid or contested within the time allowed by law;
- B. The Sheriff has probable cause to believe that the vehicle operator is driving uninsured in violation of ORS 806.010;
- C. The vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway;
- D. The vehicle is parked on property owned, operated or occupied by the County, other than highways or clearly designated public parking spaces, without express County permission;
- E. The Sheriff has probable cause to believe the vehicle is stolen;
- F. The vehicle is parked on any County highway for more than 72 hours without being moved at least three vehicle lengths away;
- G. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or is prohibited during a construction project defined by designated hours or days;
- H. The Sheriff has probable cause to believe that the vehicle operator, at or just prior to the time the Sheriff stops him or her, is speed racing on a highway, in violation of ORS 811.125;
- I. The vehicle is parked, stopped, or left standing in any County park area after the daily closing time and before the daily opening time, or in violation of any “No Parking” signs or markings authorized by the Park Supervisor, or otherwise in violation of the Clackamas County Park Rules Chapter;
- J. The vehicle is parked in violation of ORS 811.615 (failure to display disabled parking permit), ORS 811.625 or 811.630 (unlawful use of disabled parking permit);
- K. The Sheriff has probable cause to believe the driver of the vehicle has been fleeing or attempting to elude a police officer (ORS 811.540), and the vehicle is abandoned by the driver; or
- L. The Sheriff has probable cause to believe the driver of the vehicle has failed to perform the duties of a driver when property damaged or persons injured (ORS 811.700 or 811.705), and the vehicle is abandoned by the driver.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.140 Notice After Affixing Boot

- A. After a boot has been affixed to a vehicle pursuant to this chapter, notice will be provided to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle. Notice shall be provided by:
1. Affixing a notice to the vehicle; and
 2. Mailing a notice to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle within 72 hours (Saturdays, Sundays, and holidays excluded) after the boot is affixed.
- B. The affixed notice and mailed notice shall state:
1. That a boot has been affixed to the vehicle;
 2. The address and telephone number of the person or facility that may be contacted for information on the fines and fees that must be paid before the boot will be removed and the procedures for obtaining the removal of the boot;
 3. That the boot will not be removed until payment of a fee in an amount set by the Board of County Commissioners to offset the County's costs in applying the boot ("boot fee") plus any unpaid, outstanding fines (or the equivalent bail);
 4. That a hearing may be requested to contest the validity of the placement of the boot; and the method of requesting a hearing, including the time within which a hearing must be requested; and
 5. That all fines and fees, or bail, must be paid, or a hearing requested, within 9 days after the boot is affixed, or the vehicle will be subject to tow.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 062-2003, 4/10/03]

7.01.150 Unidentifiable Vehicle

A notice otherwise required by this chapter is not required when:

- A. A vehicle required by law to display license plates does not display license plates, or displays plates registered to a vehicle not matching the subject vehicle, and the vehicle identification number is not visible or does not indicate the ownership of the vehicle after inquiry to the Oregon Motor Vehicles Division records; or
- B. The owner of the vehicle, or other person(s) with an interest in the vehicle, cannot be determined after inquiry to the licensing and registration agency of the state from which the license plates originate.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.160 Request for Hearing

- A. Any person who has an interest in a vehicle subject to towing or booting under this chapter may request a hearing to contest the validity of the towing or booting. Any such person may also request a hearing to contest the reasonableness of the towing or storage charges, unless the person, or the owner, specifically requested
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- the tow or storage company used.
- B. The request for hearing must be in writing and must state the grounds upon which the person requesting the hearing believes the tow (or boot) to be invalid. The request for hearing must also contain such other information relating to the purposes of this chapter as the Hearings Officer may require.
- C. Such a request for hearing must be received by the Sheriff's Department within the following number of days:
1. If the hearing is to contest a citation, within 14 days from the issuance of the citation;
 2. If the hearing is to contest a tow without prior notice, within 14 days of the tow;
 3. If the vehicle has been booted, within 9 days of the date the vehicle was booted.
- D. The Hearings Officer will set and conduct an administrative hearing on the matter within 72 hours of receipt of a timely request for hearing (not including Saturdays, Sundays, or holidays), except in cases where the vehicle is not in custody because it has not yet been towed or has been reclaimed from the tow company. In such cases, the hearing will be set and conducted within 14 days of the date re request for hearing is received (excluding Saturdays, Sundays and holidays).

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.170 Hearing

- A. Tow hearings shall afford a reasonable opportunity for the person(s) requesting them to demonstrate, by the statements of witnesses and other evidence, that the tow or placement of a boot is invalid, or that the towing or storage charges are unreasonable where the company was not specifically requested by the person or the owner.
- B. The towing and storage charges shall be presumed reasonable.
- C. The County shall have the burden of showing that the tow, or proposed tow, or the placement of the boot, was or would be, valid.
- D. The Office of the Parking and Towing Hearings Officer is hereby established. The Hearings Officer shall hold hearings on cases of disputed citations and tows, and act on behalf of the Board of County Commissioners in accordance with this chapter. The Hearings Officer shall be appointed by the Board of County Commissioners and serve at its pleasure. The Hearings Officer may establish necessary rules and regulations regarding the conduct of such hearings, consistent with this section.
- E. The decision of the Hearings Officer is the County's final decision.
- F. The owner(s) and any other person(s) who have an interest in the vehicle are entitled to only one hearing for each seizure of that vehicle.
- G. If the person requesting a hearing fails to appear at the hearing, the Hearings Officer may enter an order finding the tow or boot to be valid, and assessing towing and storage charges against the owner.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.180 When Tow or Boot Found Invalid

If the Hearings Officer finds the tow or boot was, or would be invalid, the Hearings Officer shall order:

- A. That the vehicle immediately be released if already towed, and any money paid by the person requesting the hearing for tow and storage charges to be returned to that person;
 - B. That the vehicle not be towed if it has not yet been towed; or
 - C. That the boot be removed from the vehicle if a boot has been affixed, and the boot fee waived; and
 - D. That appropriate disposition is made of any bail, which has been posted.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.190 Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]**7.01.200 When Tow or Boot Found Valid**

If the Hearings officer finds the tow or boot to be valid, the Hearings Officer shall:

- A. Assess the amount of the fine under this chapter;
 - B. If the vehicle is still booted or held, order that it continue to be booted or towed to storage or held until all charges, fines, and fees have been paid, or until County ordinances or State statutes allow for further disposition or sale;
 - C. If the vehicle is subject to towing after prior notice, order the vehicle to be towed and impounded until all fines, fees and charges have been paid, or until ordinances and statutes allow for other disposition; and
 - D. Order appropriate disposition of any bail, which has been posted.
- [Codified by Ord. 05-2003, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.210 Payment of Towing Charges; Reasonableness

- A. If the Hearings Officer finds the towing or booting was valid, or if the validity of the tow cannot be challenged because prior notice was given and no hearing was requested in a timely manner, s/he shall determine whether the towing and storage charges are reasonable, and order that the towing and storage charges be paid:
 1. By the person requesting a hearing, or other person claiming possession of the vehicle, to the extent the charges are reasonable; and
 2. By the County or the tow company to the extent the charges are unreasonable.
 - B. If the Hearings Officer finds the towing or booting was invalid, s/he shall determine whether the towing and storage charges are reasonable, and order that the towing and storage charges be paid by the County or the towing company.
 - C. The Hearings Officer shall not order that the towing or storage charges be paid by the County in any case where the State Police have ordered the vehicle towed and then transferred authority over the vehicle to the County under ORS 819.140
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(1)(a).

- D. Payments already made to tow or to storage companies may be offset or reimbursed in appropriate cases.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.220 Lien for Towing Charges; Release of Vehicle

- A. Any person who tows or stores any vehicle pursuant to this chapter shall have a lien on the vehicle and its contents, in accordance with ORS 87.152, for the just and reasonable charges for the tow and storage services performed. The person may retain possession of the vehicle, consistent with law, until towing and storage charges have been paid.
- B. A towed or booted vehicle and its contents must be immediately released to the person(s) entitled to lawful possession once the following obligations are satisfied:
1. Payment of towing and storage charges;
 2. Payment of outstanding fees, fines or the equivalent bail (including but not limited to fines under chapter 6.06 and 7.01);
 3. Proof of liability insurance covering the vehicle, if the vehicle was towed for the operator's failure to have liability insurance;
 4. Proof of registration, if the vehicle was towed for expired registration;
 5. Proof of ownership, a valid driver's license, and liability insurance covering the vehicle, if the vehicle is towed for any of the following:
 - a. Driving while suspended or revoked;
 - b. Driving without driving privileges or in violation of license restrictions;
 - c. Driving under the influence of intoxicants;
 - d. Speed racing on highway;
 - e. Fleeing or attempting to elude a police officer; or
 - f. Failure to perform the duties of a driver; and
 6. A release by the responsible officials of the Sheriff's Office or District Attorney's Office of a vehicle impounded as evidence, when it is no longer needed as evidence.
- C. If towing and storage charges and outstanding fees, fines, or the equivalent bail have not been paid, a vehicle will not be released, except upon order of the Hearings Officer.
- D. A vehicle towed or booted pursuant to this chapter may only be released to the owner, or to the person who was lawfully in possession or control of the vehicle at the time it was towed or booted, or to a person who purchased it from the owner and who produces written proof of ownership. In all cases, adequate evidence of the right to possession of the vehicle must be presented prior to release.
- E. If a vehicle has been towed by order of the Sheriff, or if authority over a towed vehicle has been transferred to the Sheriff, the person claiming the vehicle shall pay to the Sheriff's Department an administrative fee in an amount set by resolution of the Board of County Commissioners in order to obtain release of the vehicle.
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- F. If a vehicle has been towed for driving uninsured, driving while suspended or revoked, driving without driving privileges or in violation of license restrictions, or for violation of ORS 809.715 or 809.720, the person claiming the vehicle shall pay to the Sheriff's Department an administrative fee in an amount set by resolution of the Board of County Commissioners in order to obtain release of the vehicle.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03; Amended by Ord. 06-2003, 4/10/03]

7.01.230 Sale of Vehicle

- A. Any vehicle that is not reclaimed within the time allowed by law may be sold, provided however that if a hearing or decision of the Hearings Officer is pending, the vehicle shall not be sold until 7 days after a decision is rendered. The contents of any vehicle are subject to the same conditions of sale as the vehicle in which they were found. A vehicle is not "reclaimed" until the owner(s) or other person(s) entitled to possession of the vehicle has fully paid all required fines, fees, and charges, and provided such other documentation as is required under this chapter.
- B. Vehicles to be sold shall be sold:
1. At public auction in the manner provided in ORS 87.172 to 87.206 (60 days to reclaim); or
 2. Vehicles appraised at a value of \$1,000 or less, may be sold under the provisions of ORS 819.220 (15 days to reclaim); or
 3. Abandoned vehicles appraised at a value of \$500 or less, may be disposed of as provided in ORS 819.215 (15 days to reclaim).
- C. The proceeds of such sale or disposition will be first applied to payment of the cost of such sale and expense incurred in the preservation and custody of such vehicles and the balance, if any, will be credited to the General Fund of the County.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

Chapter 7.02

7.02 OFF-ROAD VEHICLES

7.02.010 Policy

The Board has determined that off-road vehicles can provide appropriate, useful and energy-efficient alternatives to automobiles when properly operated, but that the unregulated use of such vehicles is a public nuisance to the people of Clackamas County and causes damage to and deterioration of the environment, detrimental to the health, safety and welfare of the people.

[Codified by Ord. 05-2000, 7/13/00]

7.02.020 Definitions

- A. For the purposes of this chapter, unless the context requires otherwise, the following terms are defined as follows:
1. NON-ROAD AREAS--any area that is not a road, or a road which is closed to off-road vehicles and posted as such; except those areas commonly held open to vehicular use, such as parking lots and race tracks, shall not be considered off-road areas;
 2. OFF-ROAD VEHICLE--every self-propelled motor vehicle designed for, or capable of, traversing on or over natural terrain, including but not limited to: snowmobiles, mini-bikes, motorcycles, four-wheel drive trucks, pickups, all terrain vehicles, jeeps, half tracks and helicopters. The definition of off-road vehicles does not include, unless used for purposes prohibited by this chapter, implements of husbandry; nor does it include military, fire, emergency or law enforcement vehicles used for legal purposes;
 3. ROAD--every public way, thoroughfare, road, street, or easement within the county used, or intended for use, by the general public for vehicular travel;
 4. SHERIFF--Clackamas County Sheriff, and his/her duly authorized representatives and deputies.

[Codified by Ord. 05-2000, 7/13/00]

7.02.030 Operation of Off-Road Vehicles

- A. It shall be unlawful for any person to operate an off-road vehicle on any non-road area which the operator does not own, unless:
1. The operator possesses written permission from the owner, contract purchaser, or lessee of the non-road area;
 2. The operator possesses written evidence of membership in a club or association to which the owner, contract purchaser, or lessee of the non-road area has given written permission, and a copy of which has been filed

- with the Sheriff;
 - 3. The owner, contract purchaser, or lessee of the non- road area has designated the non-road area as open for recreational purposes in accordance with ORS 105.655 to 105.680 by filing such consent and other information necessary to identify the area with the Sheriff; or
 - 4. The owner, contract purchaser or lessee has designated the non-road area as being open to off-road vehicle use by posting notice thereof in a form and manner prescribed by the sheriff.
- B. It shall be unlawful for any person to:
- 1. Falsify the written permission required by subsection A 1 of this Section;
 - 2. Falsify the evidence of club or association membership or the written permission required by subsection A 2 of this Section;
 - 3. Falsify the filing or consent required by subsection A 3 of this Section; or
 - 4. Post the notice, or remove the posted notice, required by subsection A 4 of this Section without the consent of the owner, contract purchaser, or lessee.

[Codified by Ord. 05-2000, 7/13/00]

7.02.040 System of Off-Road Vehicle Trails and Facilities

The Board of County Commissioners may develop, maintain and regulate facilities for the enjoyment of off-road vehicles, and shall conspicuously post such areas as off-road vehicle areas.

[Codified by Ord. 05-2000, 7/13/00]

7.02.050 Penalties

- A. It shall be a violation of County law for any person to violate this chapter.
- B. Such a violator may be prosecuted by the County in the name of the people of the County, or may be redressed by a civil action, suit, or proceeding brought by the County. The Sheriff may arrest such person when he/she is found in the act of operating an off-road vehicle in violation of this chapter; the Sheriff may issue a citation in accordance with ORS 133.070 in lieu of exercising custody of the operator.
- C. A fine in an amount set by resolution of the Board of County Commissioners shall punish any person convicted of a violation of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

7.02.060 Conformance with Law

This chapter shall not be a substitute for or eliminate the necessity of conformity with any and all State laws, rules and regulations, and other chapters or ordinances, which are now or may be in the future, in effect, which relate to the activities herein regulated.

[Codified by Ord. 05-2000, 7/13/00]

Chapter 7.03

7.03 ROAD USE

7.03.010 Purpose

This Chapter shall govern:

- A. Road use impediments, entrances, utility placements, and other activities within the right-of-way of County roads, local access roads, and public roads;
- B. Activities on private property which impact the safe use of these roads; and
- C. Vacation proceedings and road status changes.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03]

7.03.20 Definitions

- A. APPLICANT/OWNER – Shall mean the corporation, cooperative, company, firm, business, partnership, individual or individuals whose name and signature appear on a utility permit and to whom the permit is issued. The applicant/owner is presumed to have permanent care and maintenance of the utility.
 - B. BOARD – Shall mean the Board of Commissioners of Clackamas County.
 - C. CABLE/WIRE – Shall mean any and all aerial pole lines and direct buried cables and conduit protected cable.
 - D. CLEAR ZONE – Shall mean the area outside the traveled portion of the roadway that is available for safe use by errant vehicles, vehicles forced off the roadway, and pedestrians avoiding traffic when necessary. The clear zone may extend outside the right-of-way. See Clackamas County Roadway Standards.
 - E. COUNTY ROAD – See “ROAD/ROADWAY”.
 - F. COUNTY ROAD OFFICIAL (“Road Official”) – As used in Chapter 368 and defined in ORS 368.001(2) shall refer to the Director of DTD. Any authority granted to or act required or permitted by the Road Official by statute may be exercised or done by the Director. Subject to approval by the County Administrator, the Director may adopt written policies designating employees of DTD that are authorized to act as the Road Official for specified purposes. (Amended by Ord. 02-2009, 3/5/09)
 - G. CULVERT – Shall mean storm sewer pipe used for conveying storm water within the road right-of-way, and meeting the specifications of the Clackamas County Roadway Standards.
 - H. DTD – Shall mean the Clackamas County Department of Transportation and Development.
 - I. ENTRY PERMIT – Shall mean that written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. This written permission allows an applicant to place, build, or construct an entry, approach road, structure, culvert, ditch, or other facility, thing, or appurtenance on the right of way, or substantially alter a facility, thing or appurtenance, or change the
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- manner of using the entry or approach road.
- J. FACILITY – Shall mean any and all cables, wires, conduits, pipe lines, pedestals and/or related appurtenances placed on or beneath the ground and authorized by a County issued permit.
- K. FIXED OBJECT – Shall mean any natural or man-made object, including vegetation, that could potentially cause harm to an errant vehicle or its’ occupants. ”Vegetation” specifically includes trees greater than 6 inches in diameter, among other things.
- L. GATES – Shall mean any framework or structure that can be opened or closed, placed or installed in the right-of-way for the purpose of controlling or restricting the public travel.
- M. INTERSECTION SIGHT DISTANCE (ISD) – See the Clackamas County Roadway Standards.
- N. LOCAL ACCESS ROAD – See “ROAD/ROADWAY”.
- O. MUTCD – Shall mean the Manual on Uniform Traffic Control Devices in its most recent Oregon adopted edition and Oregon adopted supplements.
- P. ORS - Shall mean Oregon Revised Statutes.
- Q. PERSON – Shall mean and include individuals, cooperatives, corporations, associations, firms, partnerships, joint stock companies, trusts and estates, municipalities, and any other legal entities whatsoever.
- R. PIPE LINE – Shall mean any and all pipe lines, hydrants, valve boxes, manholes, and/or related appurtenances authorized by the issuance of a permit.
- S. POLE LINE – Shall mean any and all poles, wires, guys, anchors, and/or related appurtenances authorized by the issuance of a permit.
- T. PRIVATE ROADWAY – Shall mean a roadway on private property, maintained with private funds, generally considered to provide practical and legal access to more than one parcel of property.
- U. ROAD/ROADWAY – See ORS 368. For purposes of this chapter, all of the following are “roads”:
1. PUBLIC ROADS: See ORS 368.
 2. COUNTY ROADS: See ORS 368.
 3. LOCAL ACCESS ROADS: See ORS 368.
- V. ROAD OFFICIAL - See "COUNTY ROAD OFFICIAL".
- W. RIGHT-OF-WAY (ROW) – Shall mean a legal use or right of passage, given to the public, over a strip of ground under the jurisdiction of county, state, or federal agencies.
- X. TRAFFIC CONTROL DEVICE – See ORS 801.540.
- Y. TRAIL – Shall mean any easement over land that is not part of a road right-of-way and does not provide motor vehicle access of the type provided by a road, but which permits travel between places. For the purpose of this chapter, a trail must be under the sole jurisdiction of Clackamas County, and must be an easement over which the public has a right of non motor vehicular use. (A change in use from a road to a trail shall not change the designation of any easement as road right of way.)
- Z. TRAVELED PORTION OF THE ROADWAY – Shall mean those areas used by and accessible to vehicles and pedestrians, including paved shoulders and bike facilities, and shall also include sidewalks or other pedestrian facilities.
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- AA. UTILITY – Shall mean privately, publicly or cooperatively owned line, network, or system for communications, cable television, power, electricity, light, heat, gas, oil, crude products, potable water, surface water or storm water, steam, waste water not connected with roadway drainage, or any other similar commodity, including any fire or police signal system, or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of this ordinance, the term includes those utility-type facilities owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility includes facilities and appurtenances used solely by the utility that are a part of its operation.
- BB. UTILITY PERMIT – Shall mean the written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. This written permission provides for the lawful construction of aerial pole lines, buried cables, pipe lines, and miscellaneous utility operations, and may include special permit provisions if deemed necessary by the Road Official.
- CC. VIOLATION – Shall mean an activity that does not comply with the requirements of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03; Amended by Ord. 02-2009, 3/5/09; Amended by Ord. 07-2012, 7/26/12]

7.03.030 Compliance

Every person shall comply with the requirements of this chapter in the location, construction, and alteration of any approach road, driveway, underground utility or any other facility, road use impediment, thing or appurtenance on or in the right-of-way of any County road, local access road, or public road under the jurisdiction of Clackamas County.

The Road Official or the Board may take any action deemed to safeguard the best interests of the traveling public, regardless of the provisions of this Chapter. This specifically includes the authority to erect gates when necessary to safeguard a public interest, without seeking a permit.

[Codified by Ord. 05-2000, 7/13/00; Amended Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.040 Conflicting Requirements

The provisions of this chapter are minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law, rules, regulations, resolutions, easements, covenants or other agreements between parties, the provisions of this chapter shall control. Where other provisions of law are more restrictive than this chapter, the more restrictive provision shall control.

[Codified by Ord. 05-2000, 7/13/00]

7.03.050 Violation as Nuisance

A violation of this chapter is hereby declared to be a public nuisance and shall continue to be a nuisance until the offending road use violation is brought into compliance with this chapter.

[Codified by Ord. 05-2000, 7/13/00]

7.03.060 Issuance of Violation Notice

The Road Official or the Road Official's designee may issue violation notices. If issued, such notices shall give a brief description of the violation and shall be served upon the person responsible for the offense. The notice shall also contain:

- A. The contact information for the County department and division issuing the violation,
- B. The date the violation was issued, and
- C. A statement that failure to correct the violation or to contact the appropriate County department within a specified time period, may result in civil or Compliance Hearings Officer proceedings to abate the nuisance.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.070 Remedies

In addition to any other remedies provided by law, if the violation has not been corrected within a minimum of ten (10) days after a violation notice is received, the County may refer the matter to the Compliance Hearings Officer for enforcement under the Compliance Hearings Officer Chapter or institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, correct or remove the installation which is in violation of the requirements of this chapter. These remedies shall exist in addition to all other remedies provided by law.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.080 Penalties

Violation of the provisions of this chapter may be sanctioned in any manner provided for by law, including, but not limited to:

- A. For violations of Sections 7.03.090 – 7.03.230, by imposing civil penalties in the amounts authorized under ORS 203.065(1).
- B. For violations of Sections 7.03.240 – 7.03.290, by imposing civil penalties in an amount to be set by the Board and as determined by the Compliance Hearings Officer.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/0; Amended by Ord. 07-2012, 7/26/12]

7.03.090 Road Use Impediments – Prohibited Activity

- A. Potential Hazards – No person shall allow any of the following things to exist on
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- any portion of the road right-of-way that abuts property s/he owns or occupies, including sidewalks, if it could create a potential hazard in the opinion of the Road Official:
1. Earth;
 2. Rock;
 3. Vegetation;
 4. Structures;
 5. Objects;
 6. Debris;
 7. Anything that may cause a potential hazard to the public in their use of a sidewalk or other facility intended for pedestrians, including, but not limited to:
 - a. Vertical displacements on the surface greater than 1/2" or vertical displacements between 1/4" and 1/2" not beveled with a slope of 50 percent or less across the entire vertical displacement.
 - b. Cracks or disrepair.
- B. Visual Impediments to Safe Road Use – No person shall allow any of the following things to exist on or in the road right-of-way, including intersecting corners, that abuts property s/he owns or occupies, or on property that abuts a road, or in the airspace above a road, if the thing obstructs the view necessary for safe operation of motor vehicles upon the road, or if it causes potential danger to the public that uses the road:
1. Trees;
 2. Shrubs;
 3. Hedges;
 4. Any vegetation;
 5. Projecting overhanging limbs of vegetation;
 6. Temporary or permanent structures;
 7. Fences;
 8. Berms;
 9. Natural or man-made objects.
- The view necessary for safe use of the road by the public shall be described in the Clackamas County Roadway Standards..
- C. Impediments that Compromise Clear Zone – No person shall allow any fixed object to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road if it compromises the clear zone criteria of the Clackamas County Roadway Standards.
- D. Obstruction of Official Traffic Control Device –
1. No person shall allow any of the following things to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road in a manner that wholly or partially obstructs the visibility of an official traffic control device from a distance of 200 feet:
 - a. Vegetation;
 - b. Overhanging or projecting limbs;
 - c. Permanent or temporary structures;
 - d. Fences;
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- e. Berms;
 - f. Natural or man-made objects.
2. When the traffic control device is a “Stop” sign, a “Yield” sign, or a traffic control signal, nothing shall obstruct its visibility from the distance described in the MUTCD, if that distance is greater than the 200 feet necessary for other traffic control devices under) D 1 of this subsection.
- E. Flow of Water Impeding Safe Use of traveled portion of the roadway. No owner or lawful occupant of property abutting any road shall allow water to overflow, seep or otherwise discharge into the traveled portion of the roadway that abuts their property, if the water creates a nuisance condition or impedes the safe use of the traveled portion of the roadway. The source of the water flow shall be irrelevant to liability under this subsection.
- F. Prohibition Against Blocking Drainage or Traveled Portion of the Roadway – No person shall allow any soil, rock, earthen material, dirt, bark dust, compost or similar processed vegetative material to erode, flow, discharge or otherwise be placed or deposited in the traveled portion of the roadway, or to block any drainage system within the road right-of-way.
- G. Regulation of Basketball Hoops, Skate Board Ramps & Cycle Ramps –
1. No person shall allow the following to exist on or in the road right-of-way, or on property abutting a road, if its placement encourages approach from, or use in conjunction with the road right-of-way:
- a. Basketball hoop;
 - b. Skateboard ramp;
 - c. Cycle ramp;
 - d. Any other thing or structure capable of being used from the road right-of-way.
2. Notwithstanding the prohibition set forth above, a basketball hoop, backboard and supporting structure may be located on dead-end local residential streets and local residential streets having expected traffic volumes of less than 250 vehicles per day, if all of the following conditions apply:
- a. The basketball hoop is no closer than 150 feet from any street intersection.
 - b. Sight distance to the basketball hoop for approaching vehicles must not be less than 150 feet.
 - c. No portion of the basketball hoop shall be located closer than 20 feet from an adjacent property line.
 - d. In no case shall court markings be placed on the roadway.
 - e. In no case shall the basketball hoop be used between the hours of 10 PM and 7 AM.
- H. Regulations for Mail boxes, Newspaper Boxes, Other Receptacles – No person shall allow any mail box, newspaper box or other receptacle to exist on the road right-of-way unless it conforms to the safety standards outlined in the most recent editions of the AASHTO Roadside Design Guide, the clear zone standards of the County Roadway Standards, or the standards of the United States Postal Service.
- I. Regulations for Portable Storage Containers – No person shall allow the
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placement of a portable storage container within the traveled portion of the roadway or within the clear zone.

- J. Regulations for Roadside Memorials –
1. A roadside memorial may be authorized pursuant to Clackamas County's Roadside Memorial policy;
 2. Unauthorized roadside memorials may be removed if:
 - a. The roadside memorial is a safety hazard in the opinion of the Road Official;
 - b. The roadside memorial creates a safety/operational/productivity issue for Transportation Maintenance personnel and/or equipment in the opinion of the Road Official, or;
 - c. The County receives a complaint regarding the unauthorized roadside memorial.
 3. If an unauthorized roadside memorial is to be removed, DTD will attempt to contact the person responsible for the roadside memorial. If contact is made with the person, 14 days will be provided to allow for removal. After a minimum of 14 days, DTD may remove the roadside memorial.
- K. Regulations for Written or Graphic Displays – No person shall post, paste, paint, brand or otherwise place or attach notices, signs, pictures, advertisements, cards, posters, bills, notices or any other form of written or graphic display to any building, fence, gate, bridge, tree, rock, board, structure, utility pole, traffic control device or its supporting structure, or anything whatever within the road right-of-way unless it is authorized under ORS 368.942–368.960.
- L. Regulations on Obstructing View by Vending or Advertising Merchandise – No person shall allow the following things to be present on the traveled portion of the roadway or on property abutting a road, if it could obstruct the view of, or cause danger to, persons who use the road:
1. Any vehicle that facilitates vending or merchandise sales;
 2. Any object or structure that facilitates vending or merchandise sales;
 3. Any object or structure that advertises, sells or offers merchandise for sale;
 4. Any utility trailer;
 5. Any recreational vehicle;
 6. Any mobile or modular home.
- M. Prohibition of Gates on Roads – Public roads are open to the traveling public and should not be gated. Only under the most extraordinary circumstances will a gate be allowed. When extraordinary circumstances create an exception, the Board's express preference will be for permitted gates to be unlocked.
1. No person shall install or allow the presence of any gate that blocks access to a road right-of-way unless:
 - a. The person has made application to the Board, describing the reasons for construction of the proposed gate, and has paid the required application fee [and can obtain the approval of 100% of the land owners that access from or adjoin the road right-of-way to be gated; and;](#)
 - b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an
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- opportunity to describe their concerns regarding construction of the gate; and
- c. The Board has approved the placement of the gate and issued a permit for the gate's construction pursuant to ORS 368.056.
2. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board shall place the following conditions on the permit:
 - a. Except under extraordinary circumstances or when necessary for the health, welfare and safety of the public, the gate shall not be locked in a way that prevents access by the traveling public on the road right-of-way;
 - b. If the road right-of-way has attained its public status due to ten years or more of adverse use under ORS 105.620, or ten years or more of uncontested public use under ORS 12.050, then the question of the road's status shall be considered in the public hearing on the gate permit, and a finding shall be made and written into the language of the permit that the road's public status has been clearly established and can no longer be contested; (This action shall fulfill the requirements of ORS 368.073(1) and ORS 368.096(2)(c).)
 - c. ~~The permit shall be limited in duration and renewable in five-year increments. If any condition existing when a gate permit is granted or renewed changes during the five-year permit term, the Board may evaluate whether to revoke the permit and require the gate to be removed prior to expiration of the term. At the time set for renewal of a gate permit, the requirements for a public hearing set forth in Section 7.03.090.N.1.b may be waived by the Road Official if there is no record of objections surrounding the gate's presence or the permit renewal.~~
 3. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board may place the following conditions on the permit:
 - a. Specifications regarding the method and means of construction of the gate;
 - b. A requirement that the person issued the permit shall bear all costs of construction and maintenance of the gate; and/or
 - c. Any other conditions the Board deems reasonable.
- N. Road Official's Authority to Issue Revocable Permit – Pursuant to ORS 374.305, the Road Official is authorized to make a case-by-case determination to allow structures, objects or other things to exist in public right-of-way, including sidewalks, so long as the things could not create a potential hazard or impediment. If the Road Official makes a determination to authorize such a thing, the Road Official may issue a revocable permit reflecting that revocable permission, and may impose any conditions s/he determines are necessary to protect the public interest. [Codified by Ord. 05-2000, Amended by Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.095 Vacation Proceedings and Road Status Changes

- A. Vacation Proceedings.
1. Vacation of any public property listed in ORS 368.326 shall be carried out pursuant to ORS 368.326–368.366.
 2. Partial vacations of public property, with reservations of rights in the form of easements (utility, ingress/egress, etc.) shall also be carried out pursuant to ORS 368.326–368.366.
 3. A vacation of public property may eliminate rights of public access, but no vacation of public property shall be allowed if the vacation would deprive an owner of access to their property without their consent.
 4. In determining whether vacation of public property is in the public interest, the Board shall consider the following criteria:
 - a. Whether the vacation would inhibit or preclude access to an abutting property, and whether an access reservation would be adequate to protect that access;
 - b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right of way;
 - c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right of way;
 - d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;
 - e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in road replacements;
 - f. Whether there are present and future likely benefits of the right-of-way to the traveling public;
 - g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;
 - h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and
 - i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation.
 5. The Order issued pursuant to ORS 368.356 at the conclusion of any vacation proceeding shall not be a land use decision, but may be appealed by Writ of Review under ORS 34.102.
- B. Road Status Changes.
1. The Board has the discretion to determine that it is necessary to change the status of a County road, local access road, public road or trail.
 2. In order to change the status of any such right-of-way, the Board shall designate the proposed new status as a local access road, public road, or trail, and shall use the same procedure set forth in ORS 368.026 for withdrawal of County right-of-way status.
 3. In determining whether to enter an Order changing the status of a right-of-way under this subsection, the Board shall consider the following criteria:
 - a. County's cost of maintenance under existing status, given the general public benefit of such maintenance;
 - b. Existing or reasonable future use of property or bodies of water
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- being accessed by subject road,
 - c. Impact to public facilities (e.g., public water supply) being served by subject road,
 - d. Existence of a long history of inappropriate use of the right-of-way, e.g., dumping of refuse/hazardous materials onto the right of way, trespassing onto or damaging of abutting property.
 - 4. A change of status may temporarily or permanently eliminate rights of public access, but no change of status may deprive a recorded owner of access to their property. If a public right-of-way is to be changed into a private right-of-way, the Board Order shall follow ORS 368.326-368.366 and ensure that necessary rights of access are reserved through appropriate easements.
 - C. Simultaneous Acceptance and Vacation of Roads.
If the circumstances of a specific road project require both vacation of an existing right-of-way and acceptance of a new right of way, the vacation and acceptance may be consolidated for hearing before the Board when consolidation is likely to maximize the efficiency of the road project.

[Added by Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.099 Utilities' Use of County Right of Way

- A. Designating Location of Utilities; Costs; Construction Approval.
The Road Official has the authority to designate the location where lines, fixtures and facilities operated by Utilities may be located upon roads under Clackamas County's jurisdiction.
 - 1. Except as provided in this Chapter, utilities shall not begin construction of a new facility or relocate an existing facility on County roads without doing the following things first:
 - a. When the proposed work is more significant than routing service connections and ordinary maintenance, utilities must provide written notice to the Road Official, including plans and specifications of the proposed construction in the form and to the scale required by the Road Official; or
 - b. When the proposed work is routine routing of service connections and ordinary maintenance, utilities must provide telephone or other appropriate notice to the Road Official; and
 - c. No matter the scope or scale of the proposed work, utilities must first obtain the Road Official's approval of the proposed construction or relocation of an existing facility.
 - 2. No advance approval shall be required when construction or relocation is necessitated by an emergency, but utilities shall give notice of work undertaken no later than the first workday following the emergency.
 - 3. The Road Official shall approve utilities work proposals unless s/he finds that the proposed construction or relocation is contrary to the public interest.
 - B. Changing the Designated Location of Utilities; Costs; Notice/Orders.
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The Road Official has the authority to order the designated location of lines, fixtures and facilities operated by utilities to be changed, either temporarily or permanently, at any time the Road Official deems it expedient. The cost of any temporary or permanent relocation of any utility required by the Road Official shall be paid by the utility.

1. The Road Official shall notify utilities in writing of proposed changes in grade, contours or alignments of County roads or of proposed vacations of roads or parts of roads that require the removal, relocation or repair of utilities' facilities.
2. Upon receiving the notice described in 7.03.099(B)(1) above, utilities shall determine the estimated requirements for accomplishing the action directed by the Road Official, and provide those requirements to the Road Official within thirty (30) days.
3. Upon receiving the estimated requirements, the Road Official may schedule a pre-construction meeting with other affected utilities and contractors.
4. The Road Official shall send a second notice to the utilities, directing them to complete the removal, relocation or repair of their facilities within a specified time frame and consistent with the coordinated plan established with other affected utilities and contractors under this Chapter. This notice shall constitute an Order from the Road Official requiring relocation of the specified utility facilities.
5. If the Road Official determines that the work must occur on a different date from that previously discussed with a utility, then s/he shall give the utility written notice of the date change no less than thirty (30) days prior to the rescheduled date. This notice shall be sent by first class mail, postage prepaid. This notice shall be an amended Order of the Road Official requiring relocation of the specified utility facilities.

C. Remedy for Failure of Utilities to Remove, Relocate or Repair Facilities as Directed.

Should a utility fail to temporarily or permanently remove, relocate or repair the lines, fixtures or facilities operated by the utility as ordered by the Road Official under this section, the lines, fixtures or facilities shall automatically become a public nuisance, which the Road Official may abate in any expedient manner. The total costs attributable to the failure of the utility to act as ordered by the Road Official, including the costs of completing the work the utility should have done under the Order, shall be itemized and an invoice shall be sent to the responsible utility. All such costs shall be promptly repaid to the County by the utility.

D. Prohibition of Interference with Public Travel, Maintenance and Improvement. Work done by utilities shall always be in accordance with state statutes, Clackamas County Roadway Standards, and with other specifications adopted by the County. Utility work shall not endanger or interfere unduly with public travel on County roads, or with the maintenance and improvement of such roads by the County. Immediately following the opening of a road, utilities shall replace and restore the surface and grade to as good and safe a condition as it was in prior to opening. Repair of defects in openings made by utilities shall be undertaken by

utilities within six (6) hours from notice by the Road Official when such defects endanger the public, and within one week of notice in all other cases.

1. When trenching across more than one-travel lane of the roadway, no more than one-half (1/2) of the traveled portion is to be opened at any one time. The relevant installation shall be made, then the opened half shall be covered and secured with steel running plates or be completely back filled and compacted before opening the remaining half.
2. No closure of intersecting streets, roadways, driveway approaches or other access points will be permitted without review and approval by the Road Official.
3. Upon trenching, steel running plates or other satisfactory methods shall be used to maintain traffic. No more than two hundred and fifty (250) feet of longitudinal trench along the roadway shall be open at one time and no trench shall be left open overnight.

E. Requirement for Periodic Inspections of Utility Openings.

Utilities shall conduct periodic inspections of openings they have made during the preceding twelve months to ensure compliance with the provisions of this section. If, after the notice described in 7.03.099(D), a utility fails to replace or restore any pavement or road surface opened by it, the Road Official may, after written notice and demand, cause the work to be done at the utility's expense. Upon receiving a statement of the costs, utility shall promptly reimburse the County. If legal action is necessary to collect these amounts, then utility shall pay all legal costs and reasonable attorney fees.

[Added by Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.100 Utility Placement Permits

- A. Application Requirements – Application for a permit to establish, place and operate utilities within the right-of-way shall be made on the official permit application, available from DTD. The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of utilities.
- B. Emergency Repair Work Rules – Emergency repair work done by the applicant/owner may proceed as needed if the Road Official is properly notified when traffic control is required. Proper notification is accomplished in the following ways:
 1. During work hours – telephone contact with DTD;
 2. After work hours – telephone contact with the County's central dispatch office.

Permits for emergency repairs shall be obtained no later than the first business day following commencement of the work.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.110 Effective Period of Utility Placement Permits

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- A. Effective unless Revoked – Permits for utility occupation and operations shall be in effect upon issuance indefinitely, or until revoked. Revocation will occur only under the following circumstances:
1. By mutual consent of the County and the applicant/owner or his successor or assign;
 2. By order of the Board or the Road Official, if the applicant/owner or his successor or assign fails to abide by the terms and conditions of the permit;
 3. By operation of law.
- B. Effect of Violations of Permit Terms or Conditions – Any violation of the conditions or terms of the permit by the applicant/owner shall be cause to suspend, modify, annul and forfeit any and all rights acquired by the applicant/owner under the terms stated in the permit or these provisions. The applicant/owner acquires no rights in the road right-of-way through obtaining a permit, and is presumed to have waived any claims for damages or compensation as a result of revocation of the permit as described in subsection A of this Section.
- C. Rules Regarding Commencement of Installation and Placement of Utility – If the applicant/owner fails to commence installation and placement of the utility by the starting date specified on the permit, the permit shall be deemed null and void, and all privileges there under shall be forfeited, unless a notice and acknowledgment of a different start date is confirmed with the Road Official. Change of a starting date may require a revision to the conditions of approval, which must be set out in special provisions.
- D. Commencement of Surety Repair Period – Upon initial completion of the permitted installation and restoration repairs, the applicant/owner shall notify the Road Official. A Department inspection will be performed within 30 days of notification. If necessary, a corrective work list will be generated. Following a Road Official inspection that results in a finding that the installation and the repaired right-of-way are within County standards, a three year surety repair period shall begin, as set out in Section 7.03.130 of this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.120 Liability, Control and Responsibility for Utilities

- A. Necessity for Additional Permits – The applicant/owner shall be responsible for securing any other permits necessary or required from cities, counties, corporations, districts, state and federal governments or individuals.
- B. Restoration or Repair of Roadway – If it is evident to the Road Official that the physical character of the roadway has been changed, degraded or damaged by the applicant/owner, the applicant/owner shall restore or repair the damage in compliance with the Clackamas County Roadway Standards, whether that damage is discovered at the time of utility installation or at a later date. If the applicant/owner fails to satisfactorily restore or repair the roadway, the Road Official may employ enforcement provisions of this Ordinance or make the necessary restoration or repairs using contractor or County forces. The applicant/owner under the terms set out in Section 7.03.200 shall pay all costs incurred by the County under these circumstances.
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- C. Responsibility for Relocating or Adjusting Pre-Existing Utilities – The applicant/owner shall be responsible for relocating or adjusting any other utilities located on County right-of-ways or other right-of-ways under the jurisdiction of the County if this is required to accommodate the utility or operation applied for. Construction of the utility or conduct of an operation by the applicant/owner, its agent or contractor, will be permitted only after the applicant/owner has furnished evidence to the Road Official that satisfactory arrangements for such relocations or adjustments have been made with the owners of the other affected utilities.
- D. Notifying Abutting Property Owners about Impact of Utility or Utility Work – Mailboxes, lawns, landscapes and rain drain connections are considered the possession of abutting property owners or lawful occupants. The applicant/owner shall be responsible for notifying the abutting property owners and restoring or replacing any materials that are disturbed or removed because of utility construction, maintenance, or operation. The applicant/owner shall accomplish restoration or replacement of materials as expediently as possible. This responsibility continues through the life of the permit. The surrounding area shall always be restored to a comparable or better condition from that which it was in prior to commencement of utility work.
- E. Liability for Injury or Damage to a Utility Covered by a Permit – The County, DTD, or employees thereof, shall not be responsible or liable for injury or damage that may occur to a utility covered by a permit, if caused by substandard installations, misallocated, non-located or non-locatable utilities, by reason of County maintenance and construction operations, or by motorist or road user operations, or County contractor or other permittee operations.
- F. County Supervision Shall Not Impact Liability of applicant/owner – Any supervision or control exercised by County personnel shall in no way relieve the applicant/owner of any duty or responsibility to the general public, nor shall such supervision or control relieve the applicant/owner from any liability for loss, damage or injury to persons or property as provided in this Section.
- G. Recorded and Unrecorded Public and Private Rights To be Honored, Regardless of Board Consent – The applicant/owner is subject to all existing public and private rights recorded and unrecorded within and appurtenant to the right-of-way of the roads. Consent of the Board for installation and operation of permitted utilities is only to the extent that the Board has legal authority to grant such consent. The expressed understanding is that the Board is granting said consent free of charge to the applicant/owner as a mere license, and the applicant/owner shall assume the entire responsibility incidental thereto.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.130 Required Insurance and Performance Bond for Utility Work

- A. Comprehensive General Liability Insurance Requirement – The applicant/owner or its contractor shall furnish a certificate of insurance for comprehensive general liability insurance to the Road Official, in an amount established by Clackamas County's Risk Management Division. The insurance shall be for a combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees. It shall protect against
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- liability for damages of any nature caused by the conduct or operation of the applicant/owner, its agents, subcontractors or employees, resulting in personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to the physical location, installation, construction, maintenance, repair, operation or use of said utility, repair, and restoration of the roadway, or in conducting any operation of this ordinance. The applicant/owner may submit evidence of insurance coverage annually in lieu of individual submissions for each permit.
- B. Acceptable Substitutions – A utility company, cooperative or municipal authority may be relieved of the obligation of submitting a certificate of insurance if it submits satisfactory evidence that it is insured, or has adequate provisions for self-insurance, in accordance with the requirements of this section.
- C. Indemnification Requirement – Both the applicant/owner and its contractor shall indemnify, save harmless and defend the County, its officers, commissioners and employees from and against all claims and action, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the applicant/owner, any subcontractor, anyone directly or indirectly employed thereby or anyone for whose acts they may be liable, regardless of whether it is caused in part by a party indemnified hereunder.
- D. Additional Assurances Required – The insurance shall include the County as an additional insured and refer to and support the applicant’s/owner’s obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide thirty (30) days written notice to the County in the event of cancellation, non-renewal, or material change, and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance.
- E. Performance Bond Requirements
1. The applicant/owner’s contractor shall furnish a performance bond and a minimum of \$1000 cash deposit for the period of time necessary to construct or install a utility or conduct an operation authorized by permit through a specified period of time determined by DTD following surface repair.
 2. The dollar amount assigned to the performance bond shall equal the amount noted in the permit special provisions, and shall be based upon the estimated cost for the trench and surface repairs.
 3. Bonds furnished must be written by a surety company duly qualified and licensed to do business in the State of Oregon, upon a form provided by DTD, certifying bond limits as set out in the permit’s special provisions.
 4. No work shall be commenced under the permit until the performance bond and cash deposit has been submitted to and received by DTD.
 5. In lieu of furnishing a cash deposit and/or a performance bond, the applicant/owner, or its contractor, may file a security agreement form securing their performance through assignment of a savings account kept in a reputable savings institution, in an amount equal to the amount required in the permit’s special provisions. The security agreement shall be on a form provided by DTD and shall be returned for review and
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- acceptance.
6. A public utility company or municipal authority may be relieved of the performance bond and cash deposit requirements.
- F. Rules for Retaining and Releasing Bonds and Cash Deposits – When the applicant/owner advises that all work set out in the permit has been completed and verified by DTD inspection, all bonds and cash deposits shall be held and shall remain in full force and effect for a three year surety repair period. At the end of this period, the Road Official shall cause the release and/or refund of all bonds, cash deposits, or other sureties to the provider after a DTD inspection confirms satisfactory surface restoration. If DTD incurs costs to achieve satisfactory surface restoration, those costs will be deducted from the surety bond or cash deposit prior to release or refund of the remainder.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.200 Allocation of Costs Connected to Utility Placement

- A. Costs Incurred Incident to Utility Placement or Continuing Operation – The applicant/owner shall pay the entire cost of locating, constructing, installing, maintaining, repairing, operating, using or relocating and adjusting the utility. Any expense, whatsoever, which is incurred incident to the utilities or the operations authorized by the permit, shall also be paid by the applicant/owner.
- B. Expense Reimbursement to County – The applicant/owner shall, in addition to Section 7.03.200.A, reimburse the County for any reasonable and necessary expenses that the County may incur in connection with and related solely to the installation of the utility or conducting the operation authorized by permit. A detailed cost breakdown of County incurred expenses may be requested and obtained from the County, and payment shall be made within thirty (30) days after receipt of billing from the County. When the Road Official deems it necessary to obtain an advance deposit, during the permit application and review process, the amount required shall be filed with DTD before the permit work is begun.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.210 Protection of Survey Monuments in the Vicinity of Utilities

- A. Location & Protection of Monuments as Responsibility of applicant/owner – It shall be the responsibility of the applicant/owner to determine the location of and to protect all survey monuments in the vicinity of a utility installation during the construction, operation and subsequent maintenance of the utility.
- B. Removal, Disturbance or Destruction of Survey Monuments – Should it become necessary to remove, disturb or destroy any survey monument(s) of record in the course of the applicant's/owner's operation, the applicant/owner shall cause a registered professional land surveyor to preserve the monument(s) and shall do so in the manner described in ORS 209.140-209.150. The costs of referencing and replacing the survey monuments shall be paid by the applicant/owner and shall be ensured by the performance bond. Failure to comply with these terms may be prosecuted as stated in ORS 209.990.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.220 Maintenance and Operation of Utilities

- A. Required Upkeep of Utilities Authorized by Permit – The applicant/owner shall at all times keep utilities authorized by the permit in a good state of repair to keep the roadway protected from damage and to protect the public from injury. If the County is notified of non-compliance with this provision, the County will respond by taking the corrective measures necessary to abate the hazard in accordance with ORS 368.251-368.281. The applicant/owner will be advised of the circumstances as soon as practical. The County will also respond by requiring the applicant/owner to undertake repairs or corrective action within six hours of advisement by the County when a defect endangers the public. Payment of all County costs shall be as stated in Section 7.03.200.
- B. Pre-Approval Required for Some Maintenance Work – Prior to operating or performing any maintenance work on a permitted utility which will interfere with or interrupt traffic upon or along the roadway, the applicant/owner shall obtain prior approval from the Road Official.
- C. Removal of Abandoned Utilities – All abandoned utilities belonging to the applicant/owner shall be removed from the right-of-way by the applicant/owner, unless the Road Official allows the utilities to remain by permit. No exemptions shall be made for aerial network. Should the County have to remove any such utilities, a bill will be presented to the applicant/owner. Reimbursement of all County costs shall be as stated in the earlier section, “Allocation of Costs”.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.230 Removal, Relocation or Repair of Utilities

- A. Response Time Required Upon County Notification of Need for Aid – If utilities are encountered in day-to-day County maintenance operations, the County shall notify the applicant/owner, and the applicant/owner shall respond as soon as practical, or no later than 24 hours from the time of notification, to aid in the maintenance efforts and further protect the utilities.
- B. Interest in Right-of-Way Supersedes Interest in Utility – Permits are issued by the County pursuant to state law, which authorizes the County to require the applicant/owner to remove, relocate or repair a permitted utility at the sole cost of the applicant/owner at any time subsequent to initial installation. If the Road Official determines that the presence of the utility is detrimental to the right-of-way itself, or to the proper repair, maintenance or reconstruction of the right-of-way, the Road Official may give written notice of the concern, and require the applicant/owner to remove, relocate or repair the utility.
- C. Required Accommodations for Capital Improvements – In the case of a roadway capital improvement, the following will apply:
 - 1. Upon receipt of written notice as stated in Section 7.03.230(B), the applicant/owner shall, within 30 days or within the time frame contained in the notice, respond with a time estimate for accomplishing the required action.
 - 2. After the applicant/owner has provided an estimated time requirement for

removal, relocation or repair of the relevant utility, the Road Official may schedule a pre-construction meeting to coordinate the requested activity with the applicant/owner, County personnel, and affected contractors.

3. In a second written notice, the Road Official shall direct the applicant/owner to complete the removal, relocation or repair of the utility, within a specified time frame and consistent with a coordination plan. The time frame outlined in this notice shall take into consideration the applicant's/owner's estimated time requirements. The costs of removal, relocation, or repair shall be paid by the applicant/owner as set out in the second notice and instructions received from the Road Official.
4. Before commencing removal, relocation or repair, the applicant/owner shall furnish insurance in the manner provided for in Section 7.03.130.
5. Should the applicant/owner fail to remove, relocate or repair the utility as provided in this section, the Road Official may remove, relocate or repair it by any means, and submit a statement of total costs for this work to the applicant/owner. Upon receiving the cost statement, the applicant/owner will reimburse the County in full, either:
 - a. Immediately; or
 - b. Within a period of time agreed on by the applicant/owner and the Road Official.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.240 General Requirements for Road Entry Permits

- A. Road Entry Permit Required.
An entry permit is required:
 1. For any new construction which requires a building permit;
 2. For any new entry constructed onto a public, County or local access road;
 3. For any change of occupancy (as defined under the Uniform Building Code);
 4. For any driveway entry or approach road onto a public, County or local accesses road which, in the opinion of the Road Official or designee, affects traffic of any kind, including vehicular and pedestrian traffic.
 - B. Exceptions to the Requirement for a Road Entry Permit – Road entry permit standards shall not apply to single family residential replacements, single family residential remodels, additions to existing single family dwellings, or construction of accessory structures to single family dwellings, unless the driveway entry must be rebuilt or relocated, or a development permit is required by the Road Official or designee per the County Roadway Standards.
 - C. Prior Status of Road Entrances Preserved – Any lawfully constructed approach road, structure, culvert, ditch, or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way prior to the adoption of this chapter shall be maintained by the occupant of the property being served and may remain in place unless it is determined by the Road Official that a traffic or pedestrian hazard is created by this facility, thing, or appurtenance. That facility, thing, or appurtenance deemed in need of removal, repair, or maintenance shall be corrected to the satisfaction of the Road Official.
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The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of road entries.[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

Chapter 7.04

7.04 OVER-DIMENSIONAL VEHICLE REQUIREMENTS

7.04.010 Purpose

The purpose of this chapter is to establish rules for the maximum length of vehicles permitted to operate upon public roads within the boundaries of Clackamas County. This chapter is enacted after the authority granted the County by ORS 810.060(1).

[Codified by Ord. 05-2000, 7/13/00]

7.04.020 Maximum Vehicle Lengths

- A. Combinations of vehicles having an overall length not exceeding 60 feet are issued Annual Permits for continuing operation. All Clackamas County Public Roads have the general capability for operation of combinations, as well as vehicles with a maximum overall length of 60 feet. Therefore, any combination of vehicles with an overall length that does not exceed 60 feet, shall be permitted continuous operation upon all Clackamas County public roads, except on those roads that are specifically restricted and identified as exceptions under Section 7.05.030 of this chapter.
- B. When appropriate, Clackamas County may also allow vehicles up to a length of 75 feet to have continuous operations on certain highways within the County boundaries, through the issuance of variance permits under the authority of ORS 818.200. These variance permits are also subject to the specific restrictions identified as exceptions under Section 7.05.030 of this chapter.

[Codified by Ord. 05-2000, 7/13/00]

7.04.030 Exceptions / Restricted Roads

- A. If it is determined that safe and efficient operations upon any of Clackamas County's public roads is reduced, the road geometric, or a specific hazard potential, then the Director of the Department of Transportation and Development, or his representative, shall:
 - 1. Identify those roads or sections of roads that merit restriction because of road geometric or specific hazard potential;
 - 2. File a list of restricted roads and sections of roads in the offices of the Department of Transportation and Development;
 - 3. Create a map that shows the location of restricted roads and sections of road; and,
 - 4. Provide a copy of the map to all trucks that are issued a County permit to exceed the 60-foot length, at the time that the permit is issued.
- B. Any road or section of road listed as restricted with the Department of Transportation and Development and/or identified on the map, provided along

with County variance permits issued to trucks to authorize travel, is an exception to the general rules that are described in Section 7.05.020 of this chapter.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 7.05

7.05 ADDRESSING AND ROAD NAMING

7.05.010 Purpose

The purpose of this policy is to:

- A. Establish a consistent and accurate methodology for site identification.
- B. Provide standards and procedures for addressing and readdressing properties in unincorporated Clackamas County.
- C. Provide standards and procedures for naming and renaming roads in unincorporated Clackamas County.
- D. Enhance site identification for improved emergency dispatch response, mail delivery, and geographic information system (GIS) compatibility.

[Added by Ord. 12-2002, 10/3/02]

7.05.020 Definitions

- A. ADDRESS: A number that assigns a reference point to a site based on the appropriate regional grid system.
 - B. AVENUE: A public or county right-of-way that runs in a north-south direction.
 - C. BOULEVARD: A broad, landscaped minor or major arterial that carries moderate to heavy volumes of traffic at moderate to high speeds.
 - D. CIRCLE: A road that runs in a circular direction terminating at or in near proximity to its beginning, and carries low to moderate volumes of traffic at low to moderate speeds (synonymous with Loop).
 - E. COUNTY ROAD: A road that has been created by deed or plat and accepted into the county road maintenance system by Order of the Board of County Commissioners.
 - F. COURT: A road that is of a short length, with no cross streets, that carries low volumes of traffic, at low speeds, and generally terminates in a cul-de-sac.
 - G. DRIVE: A meandering collector or arterial that carries low, moderate or high volumes of traffic at low, moderate or high speeds (synonymous with Parkway).
 - H. EMERGENCY SERVICE PROVIDER: Clackamas County Central Dispatch, a fire district providing service in Clackamas County, or the Clackamas County Sheriff's Department.
 - I. FRONT PROPERTY LINE: Any boundary line separating the lot from a county, public, state or private road or access drive.
 - J. GRID: The addressing matrix based on the nearest urban system, i.e., Portland, Salem, etc.
 - K. LANE: A local road that is of a short length, that carries low volumes of traffic, at low speeds, and generally terminates in a cul-de-sac.
 - L. LOOP: A road that runs in a circular direction terminating at or in near proximity to its beginning, and carries low to moderate volumes of traffic at low to moderate speeds (synonymous with Circle).
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- M. PARKWAY: A meandering collector or arterial that carries low, moderate or high volumes of traffic at low, moderate or high speeds (synonymous with Drive).
 - N. PLACE: A local road that is of a short length, that carries low volumes of traffic at low speeds (synonymous with Terrace and Way).
 - O. PRIVATE ROAD: A road that may be an easement, that has been created without a dedication to the public, and is not maintained by the county.
 - P. PUBLIC ROAD: A road that has been created by deed or dedicated on a plat to provide a public way, but has not been accepted by the county for maintenance.
 - Q. ROAD: Any public or private right-of-way. The term “road” for the purposes of this chapter shall be synonymous with the term “street”, except when used as a suffix as described below.
 - R. STREET: A public or county right-of-way that runs generally in an east-west direction.
 - S. TERRACE: A road that is of a short length, that carries low volumes of traffic at low speeds (synonymous with Place and Way).
 - T. WAY: A road that is of a short length, that carries low volumes of traffic at low speeds (synonymous with Place and Terrace).

[Added by Ord. 12-2002, 10/3/02]

7.05.030 Addressing Standards

Addresses shall be assigned by the county consistent with the following standards:

- A. Eligibility for Address
 - 1. All occupied structures shall be assigned separate addresses as necessary as determined by the Planning Division.
 - 2. Unoccupied structures or properties may be assigned addresses if it is necessary to identify the site because of utility connections, assessment, permit issuance, emergency dispatching, or other similar reasons.
 - 3. Temporary residences shall be addressed separately from other uses on the property.
 - B. Placement of Address. Addresses shall be placed and located in a manner that is readily visible and legible from the street as required by the Uniform Fire Code. Additionally:
 - 1. Structures shall have addresses posted on the wall adjacent to the front entrance.
 - 2. Structures that do not have street frontage shall post additional addresses at the driveway entrance.
 - 3. Commercial and industrial business parks, multifamily developments, and manufactured dwelling parks shall post addresses on each site. Buildings with multiple addresses shall have the address range identified on the structure through the use of on-building signs.
 - 4. Addresses shall be posted in accordance with the applicable Oregon Uniform Fire Code or One and Two Family Dwelling Code.
 - C. Sequence of Numbering. Addresses shall be assigned consistent with the regional or established grid of the county in consideration of the following:
-

1. Sites located on the south or east side of a road shall be assigned even numbered addresses and remain consistent the entire length of the road regardless of its meandering.
 2. Sites located on the north or west side of a road shall be assigned odd numbered addresses and remain consistent the entire length of the road regardless of its meandering.
 3. Street numbers for urban areas shall be assigned according to the front property line. Corner lots shall be addressed from the property line to which the front door is oriented.
 4. Street numbers for rural areas shall be assigned at that point where the driveway intersects the road. Should a driveway be relocated, the address shall be changed consistent with the applicable grid system unless the original driveway is maintained in a usable condition.
 5. Subdivisions shall be assigned different address numbers for adjacent parallel streets. Additionally, streets that are within the same subdivision and have similar names (Cottonwood, Firwood, etc.) shall not have the same address numbers.
- D. Exceptions. The following exceptions may be granted when the addressing of property conflicts with the addressing standards:
1. The addressing of any road shall remain sequential along the entire length of that road regardless of its meandering.
 2. Addresses of sites with circular driveways shall be assigned to that access point having the lowest number on the grid.
 3. Commercial and industrial business parks, multifamily developments, and manufactured dwelling parks may be assigned building, suite, unit, or space numbers when there are insufficient numbers available to assign addresses according to the grid. In the case of multiple floor structures, the first digit of a unit or suite number shall be consistent with the floor level. Numbers, rather than letters, shall be used for such identification.
 4. Sites without access to the road adjacent to the front property line shall be addressed in reference to the grid of the road accessing the site.

[Added by Ord. 12-2002, 10/3/02]

7.05.040 Road Naming Standards

Road names shall be selected in consideration of the following factors:

- A. A new name shall not duplicate or sound similar to the name of an existing road. In the case of new subdivisions and partitions, duplicate road names may be permitted when the roads to be so named intersect with one another and are given different suffixes in accordance with the suffix definitions in section 7.05.020 of this policy.
 - B. Major streets and highways shall maintain a common name for the entire alignment
 - C. Whenever practical, historical names shall be utilized or retained. Historical factors to be considered shall include:
 1. Original holders of donation land claims in the county.
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2. Early homesteaders or settlers in the county.
 3. Long-time residents of the county.
 4. Explorers of the county.
 5. Local Native American Tribes.
 6. Early leaders and pioneers of eminence.
 7. People and events that have left their mark on the county.
 8. Native flora and fauna.
- D. Hyphenated or exceptionally long names shall be avoided as well as initials (such as A.J. Feely Street).
- E. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the county.
- F. All new roads serving three (3) or more existing, or potential, properties shall be named. Sites being served by this road shall be addressed on this road using the grid system in effect for the area.
- G. A minimum of two (2) existing or potential properties being served by a single road is required before the road is eligible for a name.
- H. Access roads in new manufactured dwelling parks shall be named.
- I. Road names shall not include a compass direction (i.e. north, south etc.) except in the prefix.

[Added by Ord. 12-2002, 10/3/02]

7.05.050 Road Sign Standards

County, public, and private roads shall be identified with an approved road sign. An “approved” road sign is a sign built and placed by the County Road Department and shall be consistent with the following standards:

- A. County and public road signs shall be green with white letters and constructed to county standards.
- B. Private road signs shall be white with black letters and constructed to county standards.
- C. Road signs shall be placed and maintained so they are fully visible from the intersecting roadway. County and public road signs shall be maintained by the county whereas private road signs shall be maintained by the residents the road is serving.
- D. When a county or public road is named or renamed at the request of other than the county or an emergency service provider, the first road sign(s) shall be purchased by the person(s) who made the request. Future replacement signs will be provided by the county at no charge to the residents whom the road is serving. The purchase of private road signs is the sole responsibility of the residents whom the road is serving or person who made the request.
- E. The county shall be responsible for providing signage for newly constructed public roads that are not part of a new subdivision, commercial or industrial business park, multifamily development or manufactured dwelling park.

[Added by Ord. 12-2002, 10/3/02]

7.05.060 Procedures

The following provisions shall establish procedures to request new or revised addresses and to request the naming or renaming of roads.

- A. Addresses: The addressing or readdressing of properties is a ministerial process to be conducted by the Planning Division. This function shall be performed by the county consistent with the following standards:
1. New subdivisions shall have addresses assigned after approval of the final plat by the Planning Division.
 2. Commercial and industrial business parks, multifamily developments, and manufactured dwelling parks shall have addresses assigned after final development approval by the Planning Division.
 3. Individual sites not described above may be issued an address when consistent with section 7.05.030.A.
 4. The county may reassign addresses without the consent of the affected property owners, under the following circumstances:
 - a. Emergency service providers state in a written request that the numbering sequence identifying properties is in such disarray that emergency response time may be compromised, or
 - b. The development or redevelopment of an area requires new street addresses as a result of the creation or extension of roads, or
 - c. Any other reason that is in the public interest.
- B. Road Names: The naming or renaming of roads shall occur consistent with the following procedures:
1. The naming of roads when reviewing applications for subdivisions, commercial and industrial business parks, multifamily developments, and manufactured dwelling parks is a ministerial process to be conducted by the Planning Division. This process shall be consistent with the Type I provisions of section 7.06.060.C.1.
 2. The Planning Division shall consider an application to name or rename a road, consistent with the Type II provisions of section 7.05.060.C.2, when the Planning Division receives a written request from emergency response providers that indicates the current identification of the road is inadequate and could compromise emergency response times.
 3. The Planning Division shall consider an application to name or rename an existing road, consistent with the Type III provisions of section 7.05.030.C.3 when the Planning Division receives a completed Road Name Application consistent with the provisions of section 7.05.070.
 4. The Planning Division shall consider an application to name or rename a newly constructed public road that is not part of a new subdivision, partition, commercial or industrial park, multifamily development or manufactured dwelling park consistent with the Type IV provisions of section 7.05.060.C.4 when the Planning Division receives a written request from the Engineering Division Manager or designee to name the new road pursuant to the standards of section 7.05.040.
-

5. The Planning staff shall consider a request to rename existing public road as mandated by a state or federal agency consistent with the Type V provisions of section 7.05.060.C.5.
- C. Administrative Review Process: The county shall assign new addresses, revise existing addresses, and name or rename roads subject to the following procedures:
1. Type I Actions. The assignment or reassignment of addresses and the naming of roads within new subdivisions, commercial and industrial business parks, multifamily developments, and manufactured dwelling parks shall be considered Type I actions. These actions are ministerial reviews and shall be approved when consistent with this chapter. Notice of new addresses and street names shall be sent to the agencies listed in section 7.05.080.A of this policy once roads are named and addresses are assigned. Staff decisions shall be considered final.
 2. Type II Actions. The naming or renaming of existing roads at the request of emergency response providers shall be processed pursuant to the following procedures:
 - a. Notice shall be given to those property owners who either access such streets or whose properties front such streets in addition to the parties listed in section 7.05.060.A.
 - b. The notice shall include a recommendation that the above mentioned property owners cooperatively submit a prospective road name choice within thirty (30) days of the date of notification. Such submissions shall be in the form of petitions in support of a specific road name. The petitions shall list the name and address of the petitioners and shall only contain signatures of owners of property who access such streets or whose property fronts such roads.
 - c. Staff shall render a decision for the road name based upon the submitted petitions. The road name that has the most signatures in support of a name shall be the road name that is selected. Only two signatures per property will be counted in tallying the votes (signatures must be legal owners'). In the event of a tie or a zero response rate, staff will choose the name based upon the road naming standards in section 7.05.040.
 - d. Only those name choices submitted within the 30-day period following notice will be considered by staff. In the event that there are no submissions, staff shall choose a name based upon the road naming standards in section 7.05.040.
 - e. Notice of the decision shall be given pursuant to sections 7.05.080.A and 7.05.080.B.
 - f. Staff decisions are the final decision of the county.
 3. Type III Actions. The naming or renaming of existing roads at the request of members of the general public shall be considered Type III actions and shall be processed pursuant to the following procedures:
 - a. The Planning Division receives a completed Road Name Application consistent with the provisions of section 7.05.070.
-

- b. Notice shall be given pursuant to sections 7.05.080.A and 7.05.080.B. A minimum of fifteen (15) days following the date of notice shall be allowed for comment on the application.
 - c. Staff shall render a decision pursuant to the road naming standards in section 7.05.040.
 - d. Staff decisions are the final decision of the county.
4. Type IV Actions. The naming of newly constructed, public roads that are not part of a subdivision, partition, commercial or industrial park, multi-family development or manufactured dwelling park shall be considered Type IV actions and shall be processed pursuant to the following procedures:
- a. The Planning Division receives a written request from the Engineering Division Manager to name the new road.
 - b. Planning staff shall make a recommendation to the County Administrator pursuant to section 7.05.040.
 - c. The County Administrator shall either approve or disapprove the recommendation from staff or defer the matter to the Board of County Commissioners for their decision pursuant to the public hearing process. If a hearing is scheduled, the Board of County Commissioners shall issue the decision.
 - d. Following the County Administrator's or the Board of County Commissioners' decision, the Planning Division shall give notice of this decision pursuant to sections 7.05.080.A and 7.05.080.B.
 - e. Such decisions are the final decision of the county.
5. Type V Actions. The renaming of existing roads as mandated by state or federal agencies shall be processed pursuant to the following procedures:
- a. The Planning Division receives notice from state or federal Agencies that specific street names shall be changed.
 - b. For roads with thirty or fewer properties that receive access from or front such roads the process listed in section 7.05.060.C.3 shall be followed.
 - c. For roads with thirty-one or more properties that receive access from or front such roads, Planning Staff shall make a recommendation to the County Administrator to name the road pursuant to the standards of section 7.05.040.
 - d. The County Administrator may approve or disapprove such recommendations or recommend a hearing with the Board of County Commissioners to consider proposed road names. If a hearing is scheduled, the Board of County Commissioners shall issue the decision.
 - e. Following the County Administrator's or the Board of County Commissioners' decision, the Planning Division shall give notice of this decision pursuant to sections 7.05.080.A and 7.05.080.B.
 - f. Such decisions are the final decision of the county.

[Added by Ord. 12-2002, 10/3/02]

7.05.070 Submittal Requirements

An application submitted by other than the County or an emergency service provider to name or rename a road shall be in the form of a petition that includes the following:

- A. A statement acknowledging that existing property addresses will change should the road name request be approved.
- B. One road name choice that meets the requirements of the Road Naming Standards as listed in section 7.05.040.
- C. Legal descriptions (Township, Range, Section, Tax Lot) of all the properties that either receive access from the road or front the road.
- D. The current addresses of all the properties receiving access from this road or front the road.
- E. The printed or typed names of the owners of all the properties receiving access from this road or front the road.
- F. The signatures of the owners of properties that receive access from or front this road acknowledging and agreeing to the requested change. A minimum of ninety percent (90%) of the property owners' signatures are necessary.
- G. The name, mailing address, and phone number of the designated contact person.
- H. A site plan or map showing the location of the road and properties that receive access from or front this road.
- I. An application fee as may be adopted by resolution of the Board of County Commissioners.

[Added by Ord. 12-2002, 10/3/02]

7.05.080 Notice Requirements

The following notice requirements shall apply to all address and road name requests. The County Assessor's records shall be used as the official records for notification purposes.

- A. Type I, II, III, IV & V actions require notification of the following parties:
 1. Clackamas County Central Dispatch.
 2. The fire district(s) having jurisdiction.
 3. The Clackamas County Sheriff's Department.
 4. The main Portland post office.
 5. The local post office(s) having jurisdiction.
 6. The Clackamas County Department of Assessment and Taxation.
 7. Others as requested or deemed appropriate.
- B. In addition to the parties listed above, Type II, III & IV actions require notification of:
 1. All property owners whose address will be changed.
 2. The local community planning organization.
 3. The applicable city when the affected property is located within an area governed by an Urban Growth Management Agreement.

[Added by Ord. 12-2002, 10/3/02]

Chapter 7.06

7.06 WAYS OF NECESSITY, TRANSFER OF JURISDICTION TO THE CIRCUIT COURT

7.06.010 Authority

Pursuant to ORS 376.200, the Board of County Commissioners of Clackamas County adopted an Ordinance removing the county governing body from jurisdiction over the establishment of ways of necessity. The Circuit Court of Clackamas County shall have jurisdiction of the statutory establishment of ways of necessity in Clackamas County. [Section 10(2), Chapter 862, Oregon Laws 1979; Ord. No. 79-2095, adopted 10/18/79]

7.06.020 Affect of ordinance

Nothing in this chapter affects any proceeding to establish a way of necessity if that proceeding was initiated before the effective date of this ordinance. [Ord. No. 79-2095, adopted 10/18/79]

Policy on Gates Blocking Access to Public Roadways

This policy handout has been written to clarify the process with which gate and related access issues will be handled by the Clackamas County Department of Transportation and Development (DTD).

Gates which block access to a public roadway are generally prohibited. In extraordinary cases gates may be allowed in accordance with County Code (attached) when the party wanting the gate clearly and convincingly proves to the Board of County Commissioners (BCC) the extraordinary conditions supporting the construction of a gate across the public roadway.

As an alternative to property owners wanting to restrict access to a public road, the abutting property owners may consider petitioning the county to change the status of the public road to a public trail or to vacate the public interest in the road, thereby creating a private road.

When a person is interested in requesting permission to install a gate across a public or county road, that person shall contact the Engineering Office of DTD, and receive a packet containing the Gate Application, Gate Petition, Consent to Gate, Gated Closure Signing, and Gate Permit forms. After reading the contents of the Gate Packet, having questions answered by Engineering staff, the applicant shall return the completed forms to DTD Engineering with the required application fee. All applicants shall be notified that the BCC strongly prefers no gates across public or county roads, and that it is the applicant's responsibility to convince the County that it is in the public's interest to install a gate across the subject roadway. Only under extremely rare circumstances will the BCC support a locked gate across a public or county roadway. All applicants shall also be notified that all costs for application processing, public hearing, warning signing, cul-de-sac or alternate turnaround construction are the responsibility of the applicant and not the County.

Following review of the application packet, records' research, notification to all interested parties including all abutting property owners and emergency service providers, and a site visit with identification of necessary advance signing and turnaround by Engineering staff, a County Road Official's recommendation memo will be created, submitted to the BCC, and a time and place set for Public Hearing. Documents accompanying this notification of interested parties will include the recommended advance signing, turnaround, and any other information considered important by the Road Official. At this Public Hearing, all interested parties will have the opportunity to offer supporting or controverting evidence regarding the proposed gate installation. At this Public Hearing, the BCC may decide to support or deny the gate installation request.

If the gate application is approved, then the applicant shall submit the required cash deposit, surety, and General Liability Certificate prior to commencing construction of the gate project. Once the gate project construction has been approved by the County, the gate may be legally used and the approved gate permit shall be subject to renewal in 5 year increments.

GATE APPLICATION

Clackamas County D.T.D.
Engineering Section
9101 SE Sunnybrook Bv
Clackamas OR 97015

1. Specific location of road to be gated

TOWNSHIP _____, RANGE _____, SECTION _____, TAX LOT _____

2. Has road been improved? Yes ___/ No ___. If so, to what level, and does it serve any homes?

3. Is the road inside an incorporated city? Yes ___/ No ___.

4. Is it a _____ Public, _____ County or _____ Local Access road? Road No. _____, if applicable.

5. Is it feasible to open the road to general public use? Yes _____ No _____

6. Have you talked to other property owners having property adjacent to the road?

Yes _____ No _____

Comments _____

7. Purpose for requesting the gate _____

NOTE: A REQUEST TO GATE A ROAD RIGHT OF WAY IS PROCESSED IN ACCORDANCE WITH CLACKAMAS COUNTY CODE 7.03.090 (K). (See back of page)

*Applicant employs such attorneys, surveyors, title companies, etc., as necessary, to submit completed documents. Application fee is expected cost for County to complete the process.

Gate application (unopposed by interested parties): \$ 695.00

Gate application (opposed by any interested parties): \$ 1695.00

=====

Clackamas County acceptance of this application for gating a roadway and fee payment does not guarantee that the Board of County Commissioners will approve the gate.

I hereby submit this application on behalf of adjacent property owners for a gate as indicated above.

Please Print:

(Name)

(Daytime Telephone Number)

(Mailing Address)

(City) (Zip)

(Signature)

Date: _____

=====

Date Received: _____

By: _____

PETITION FOR A GATE

To the Board of County Commissioners
of Clackamas County:

In the Matter of the Gating of:
Road Name _____

Legal Road Number _____ DTD Road Number _____

Section _____ Township _____ Range _____

I, _____ being a fee holder, or an abutting property
owner of record as shown in the Deed Records of Clackamas County of the property sought to
be gated, do hereby petition the proceeding to gate _____
more particularly described as follows:

If the gate is to be locked, describe the extraordinary circumstances that justify granting the
gating of the described property are: (attach extra page if necessary)

EXISTING AND FUTURE USE OF THE PROPERTY:

PHYSICAL CONDITION OF PROPERTY:

REASONS FOR GATING:

Is any portion of the property proposed to be gated situated within the corporate limits of any city?
_____ Yes ___ No

Is any part of the road to be gated developed and/or in use by the traveling public? _____ Yes _____ No

Will the gating deprive an owner of a recorded property right of access necessary for the exercise of that property
right?
_____ Yes _____ No

CONSENT TO GATE

(This Consent to Gate shall be submitted along with and in conjunction with the Gate Application)

I, _____
(Name)

property owner of _____
(Address)

(City) (State) (Zip)

(Telephone Number: () _____)

being the owner of real property adjoining _____
(Proposed Road to be Gated)

said real property described as follows, to wit:

Township _____, Range _____, Section _____, Tax Lot _____,

do hereby state that I have read the attached petition and consent to gating of the aforementioned road or portion thereof.

(Owner)

(Owner)

(Owner)

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public for the State of Oregon

My Commission Expires _____

GATE PERMIT

CLACKAMAS COUNTY, OREGON, hereby authorizes _____, herein after called permittee, his heirs, executors, successors, and assigns, to enter onto _____ and /or occupy that portion of the county road right-of-way, located in Township _____, Range _____, Section _____, County Road Number _____, Road Maintenance Number _____, for the purpose of the construction, installation and maintenance of a gate across the road right-of-way.

In consideration of the granting of this right to enter onto and/or occupy the aforementioned right-of-way, the Permittee agrees to release and discharge Clackamas County, its officers, employees and agents from all claims, actions and demands which the undersigned Permittee may have or which may have resulted from the use and occupancy of County right-of-way. Further, the Permittee agrees to indemnify, hold harmless and defend the county, its officers, employees and agents against all claims, actions and demands, and all expenses incidental to investigation and defense, arising from the permittee's use or occupancy of county right-of-way.

The undersigned further states that he accepts the following special conditions as a condition of this permit.

1. Alteration, expansion, relocation or removal of the permitted gate shall not be undertaken by the permittee without notice to Clackamas County through the Road Official or his Designee.
2. The Permittee shall be responsible for any and all personal or property damage resulting from construction, repair or reconstruction of facilities covered in this permit and shall save the County harmless from any and all claims and expenses arising out of the work.
3. The County Commissioners and the County Road Official or his Designee, reserve the right to order the change or removal of any construction authorized by this permit at any time when the public safety or the public convenience and general welfare of the public requires such action.
4. The permittee shall assume all costs of necessary alteration, expansion, relocation, removal, repair and maintenance, whether or not that work is required by the County.
5. If the work done under this permit interferes in any way with the drainage of a Public, Local Access or County road, the owner shall make such corrections as are necessary to take care of the drainage problem to the County's satisfaction, wholly at his own expense and without financial contribution from the County.
6. A surety must be provided to the County in the amount of \$ _____ to ensure proper installation and construction of required elements of this project. A \$500,000 General Liability Certificate naming Clackamas County as additional insured must be on file.
7. All emergency agencies shall have access at all times to all areas surrounding the construction site, and shall have access to all areas on all sides of the gate at all times after its construction is completed.

Permittee Date
Subscribed and sworn to before me this _____
_____ day of _____ 20 _____

Notary Public
My Commission expires _____

Clackamas County
Department of Transportation and Development

By _____
Date _____

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between
the Housing and Community Development Division and the City of Gladstone
for E. Clarendon Street Improvements in Gladstone

Purpose/Outcomes	The Agreement will allow for the Housing and Community Development Division to work with the City of Gladstone and their hired engineer to complete the construction of street, sidewalk, waterline and storm drain improvements along E. Clarendon Street in Gladstone.
Dollar Amount and Fiscal Impact	\$245,000 of Community Development Block Grant funds and approximately \$308,000 of City of Gladstone funds.
Funding Source	U.S. Department of Housing and Urban Development No County General Funds are involved.
Duration	Effective September 2018 through November 2019
Previous Board Action	2018 Action Plan and the 3 -Year Funding Recommendations were approved by the BCC on May 3, 2018 agenda item 050318 - A1
Strategic Plan Alignment	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
Contact Person	Mark Sirois, Housing and Community Development - (503) 655-5664
Contract No.	#9047

BACKGROUND:

The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Intergovernmental Agreement with the City of Gladstone for the E. Clarendon Street Improvements Project. The Agreement determines the roles of the City of Gladstone and the County regarding CDBG funding of \$245,000 and City match of approximately \$308,000, contract administration, project management as well as the duties of the hired engineer during project construction. The Agreement was reviewed and approved by County Counsel on September 17, 2018.

RECOMMENDATION:

We recommend the approval of this Agreement and that Richard Swift H3S Director be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY DEPARTMENT OF
HEALTH, HOUSING AND HUMAN SERVICES,
HOUSING AND COMMUNITY DEVELOPMENT DIVISION
AND
THE CITY OF GLADSTONE

I. Background

- A. This Intergovernmental Agreement (this "Agreement") is entered into between Clackamas County, acting by and through its Housing and Community Development Division ("COUNTY") and the City of Gladstone ("CITY") for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides for the **2018 E. Clarendon Street Improvements** project which includes design and construction of street, sidewalk, waterline and storm drain improvements along a 6-block long section of E. Clarendon Street. This section of street needs a variety of utility improvements and several blocks have no sidewalks in the City of Gladstone. These improvements are herein referred to as the "PROJECT."
- C. The COUNTY has determined that the PROJECT is eligible for Community Development Block Grant ("CDBG") funds as a Low-Mod Area Benefit Activity. The service area for the PROJECT is defined as U.S. Census Tract 220 Block Group 3 and shown on the map included in Attachment A, attached hereto and incorporated by reference.

For good and valuable consideration, the receipt of which is hereby acknowledged, COUNTY and CITY agree as follows:

II. Scope of Responsibilities

- A. Under this Agreement, the responsibilities of the CITY shall be as follows:
 - 1. The CITY shall provide all necessary supervisory and administrative support to assist the COUNTY with the completion of the PROJECT.
 - 2. The CITY shall obtain any easements or approvals necessary to allow access onto private property through the course of the PROJECT. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies

Act of 1970, as amended (“URA”). If assistance is needed for URA guidance, the COUNTY has a Right-Of-Way Acquisition Specialist.

3. The CITY shall provide Engineering services internally or externally for the design and construction oversight of the PROJECT. Such services shall be provided at no cost to the COUNTY. The CITY shall assume responsibility for ensuring the following:
 - a. The CITY shall hire a registered professional Engineer (herein after referred to as Engineer) to prepare all plans and specifications necessary to publicly bid the PROJECT for award to a construction contractor (herein after referred to as Contractor) and provide construction oversight including staking and surveying of the PROJECT. The Engineer may donate staff time as well as donate materials for the PROJECT.
 - b. The CITY shall require the Engineer to maintain comprehensive general (including contractual liability) and automobile liability insurance for personal injury and property damage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to Engineer's or any of Engineer's subcontractor's performance of this Agreement under the following provisions listed in the matrix below.

Minimum Insurance Requirements for Contracts with Government, Architect or Engineer:

Reason for Contract:	Commercial General Liability:	Automobile Liability Commercial:	Professional Liability:
Consulting Services/ Professional	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Design Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Engineers	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Professional Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000

- c. The Engineer shall endeavor to use good faith in order to maintain in force such coverage for not less than three (3) years following

completion of the PROJECT. The CITY shall require the Engineer to include the COUNTY as an additional insured and refer to and support the Engineer's obligation to hold harmless the COUNTY, its officers, commissioners and employees. Such insurance shall provide 30 days written notice to the COUNTY in the event of cancellation, non-renewal, or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. The insurance company will provide written notice to the COUNTY within thirty (30) days after any reduction on the general annual aggregate limit.

- d. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the Engineer's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of the contract.
- e. The CITY shall require the Engineer to furnish the COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this contract. The COUNTY, at its option, may require a complete copy of the above policy.
- f. The insurance, other than the professional liability insurance, shall include the COUNTY as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing the COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance with respect to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

- g. The CITY shall ensure that the Responsibilities of the Engineer include, but not be limited to, the following:
 - (i) During construction, the Engineer shall endeavor to guard the COUNTY against apparent defects and deficiencies in the permanent work constructed by the Contractor.
 - (ii) All reports and recommendations concerning construction shall be submitted to the COUNTY for their approval. The COUNTY agrees that no decisions affecting construction shall be made without CITY approval.
 - (iii) In the event modifications to the construction contract, which result in an increase in the contract amount, are made without the prior approval of the COUNTY, CITY shall be solely responsible for these modifications.
 - (iv) Notify the County Surveyor of the PROJECT and provide CITY, design Engineer, surveyor and contractor contacts.
 - (v) File a "Pre-Construction Record of Survey" with the County Surveyor prior to the PROJECT final award of the construction contract in order to identify and preserve the locations of survey monuments that may be disturbed or removed during the construction as described in ORS 209.150.
 - (vi) File a "Post-Construction Record of Survey" with the County Surveyor after the construction PROJECT is completed. The Engineer is responsible to replace any property corner monuments that were disturbed or removed during construction as described in ORS 209.150.
- 4. The CITY shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the expenditure of funds by the CITY as provided by Oregon Statute.
- 5. The CITY shall complete and submit a Performance Measures Report following completion of the PROJECT, attached as ATTACHMENT A and incorporated by reference.
- 6. The CITY shall complete and submit a Matching Funds Report following completion of the PROJECT, attached as ATTACHMENT B and incorporated by reference.
- 7. Upon completion of the PROJECT, the CITY:

- a. Agrees and promises to repay the COUNTY all amounts incurred by the COUNTY under the contract for construction of the PROJECT, subject to the terms and conditions of this Agreement;
 - b. Agrees to accept the improvements and take ownership, including responsibility for any claims against the PROJECT from that point forward;
 - c. Agrees to become the successor of the PROJECT construction contract and assume all of the corresponding rights and responsibilities; and
 - d. Agrees to indemnify, defend, and hold harmless the COUNTY, its officers, commissioners, agents and employees from and against all liability, loss and costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the CITY or its employees or agents, following completion and assumption of the PROJECT by the CITY. The City's obligations under this subsection shall survive termination of this Agreement.
8. The CITY agrees to maintain ownership of the property for the life of the PROJECT.
- B. Under this Agreement, the responsibilities of the COUNTY will be as follows:
1. The COUNTY will appropriately bid and contract for construction of the PROJECT and, with the advice of the CITY, will approve changes, modifications, or amendments as necessary to serve the public interest
 2. The COUNTY will assign a Project Coordinator to perform the following duties:
 - a. Provide PROJECT Manual Documents and Bid the PROJECT;
 - b. Award the PROJECT;
 - c. Hire the lowest responsive/ responsible General Contractor;
 - d. Issue the Notice to Proceed to General Contractor;
 - e. Process Pay Request using CDBG funds and CITY funds;
 - f. Conduct on-site interviews of workers for Federal Prevailing Wage Rates for Davis-Bacon as well as review submitted Payroll Forms for the Project;
 - g. Collect all HUD (defined below) required PROJECT Close-Out Documents;

- h. Release Retainage to Contractor will occur only after hired Engineer and the CITY approve and sign-off on PROJECT after the scope of work has been completed; and
 - i. Relinquish ownership of PROJECT to the CITY upon completion.
 - 3. The COUNTY agrees to provide and administer available Federal Community Development Block Grant (“CDBG”) funds (CFDA 14.218) granted by the U.S. Department of Housing and Urban Development (“HUD”) to finance the PROJECT.
 - 4. The COUNTY shall conduct necessary environmental reviews described in 24 CFR 570.604 of the CDBG regulations for compliance with requirements of the CDBG program prior to the start of construction.
 - 5. The COUNTY shall provide reasonable and necessary staff for administration of the PROJECT.
- C. The COUNTY and CITY agree to jointly review and approve all design, material selection, and contract documents for the PROJECT.
- D. If, following receipt of construction bid proposals as part of the COUNTY’s public bid process for construction of the PROJECT, the parties, individually or collectively, determine the PROJECT cannot be completed with available funds, the COUNTY and CITY agree to negotiate, in good faith, a possible modification of the PROJECT to accommodate funding limitations. If the parties are unable to reach an agreement as to a modified PROJECT, this Agreement shall terminate, the parties shall bear their own costs incurred as of the date of termination, and the parties shall have no further obligations to each other.

III. Budget & Financial Responsibilities

- A. The COUNTY will pay the contract for construction of the PROJECT. Subject to the terms and conditions of this Agreement, the CITY hereby promises to repay the COUNTY for the full amount paid under the construction contract.
- B. The CITY’s obligation to repay the COUNTY shall be reduced by the amount of CDBG funds received from HUD for the PROJECT, in an amount not to exceed \$245,000. The parties agree that the CDBG funds will be applied first to the total cost of the construction contract for the PROJECT. If the total cost of the construction contract for the PROJECT exceeds the CDBG funds, the CITY will contribute the greater of:
 - 1. Twenty percent (20%) of the total cost of the construction contract for the PROJECT, or

2. All costs which exceed available CDBG funds budgeted (**\$245,000**) for the PROJECT.
- C. In addition to the CITY's contribution for the total cost of the PROJECT, the City will contribute the cost of engineer services. However, the CITY shall credit 15% of the final cost of engineering toward the CITY's contribution to the total cost of the construction contract for the PROJECT.
- D. The CITY agrees to repay the COUNTY for costs incurred under the construction contract for the PROJECT in the following manner:
1. In the event a contractor is entitled to payments for work completed above and beyond the amount of CDBG funds received from HUD for the PROJECT, the COUNTY shall request a transfer of funds from the CITY for the amount necessary to make such payments. The CITY shall transfer funds which exceed available CDBG funds and are owed to a contractor to the COUNTY within thirty (30) consecutive calendar days of a written request.
 2. Upon receipt of written notification from the COUNTY, the CITY shall provide payment within thirty (30) consecutive calendar days to the COUNTY the funds necessary to meet the matching contribution requirement in Part III. B. All checks shall be made payable to Clackamas County, include a Project Number and be mailed to the following address:

Attn: Larry Crumbaker
Clackamas County - Finance Office
Public Services Building
2051 Kaen Road
Oregon City, OR 97045
 3. In the event that unforeseeable conditions arise which necessitate the execution of a change in the amount of the construction contract, the CITY and the COUNTY will jointly evaluate the circumstances surrounding the conditions. Upon approval by the CITY and the COUNTY, the COUNTY shall instruct the Engineer to execute a change order.
 4. Funds for the change order(s) shall be funded primarily by the CITY. The COUNTY will provide CDBG funds for change order(s) if there are still those funds available to use as outlined in Section III, B.

IV. Liaison Responsibility

Jim Whynot, will act as liaison from the CITY for the PROJECT. Mark Sirois will act as liaison from the COUNTY.

V. Special Requirements

- A. Law and Regulations. The COUNTY and CITY agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. Public Contracting Requirements. To the extent applicable, the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 are incorporated by this reference as though fully set forth.
- C. Relationship of Parties. Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- C. Indemnification. Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the CITY agrees to indemnify, defend and hold harmless the COUNTY, its officers, commissioners, agents and employees from and against all liability, loss and costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the CITY or its employees or agents, in performance of this Agreement.

Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the COUNTY agrees to indemnify, defend and hold harmless the CITY, its officers, commissioners, agents and employees from and against all liability, loss costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the COUNTY or its employees or agents, in performance of this Agreement.

The parties' obligations under this subsection shall survive termination of this Agreement.

- E. Notice. Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- F. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.

G. Access to Records. The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the CITY which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.

H. Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

Obligations of the COUNTY are also expressly subject to the COUNTY receiving funds the PROJECT, including funds from HUD, and in no event shall the COUNTY's financial contribution exceed the amount finally granted, released and approved for the PROJECT.

I. Conflict of Interest. No officer, employee, or agent of the CITY or COUNTY who exercises any functions or responsibilities in connection with the planning and carrying out of the Block Grant Program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.

J. Insurance. The CITY will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected CITY property. The CITY will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable, the CITY shall be required to maintain flood insurance. Each party agrees to maintain insurance, or self-insurance, in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.272.

K. Nondiscrimination. The CITY and the COUNTY agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, familial status, or the presence of any mental or physical handicap. These requirements are specified in ORS chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.

L. Handicapped Accessibility. The CITY agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by

handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.

- M. Nonsubstituting for Local Funding. The CDBG funding made available under this Agreement shall not be utilized by the CITY to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- N. Evaluation. The CITY agrees to participate with the COUNTY in any evaluation project or performance report, as designed by the COUNTY or the appropriate Federal department, and to make available all information required by any such evaluation process.
- O. Audits and Inspections. The CITY will ensure that the COUNTY, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.
- P. Acquisition. If completion of the project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.
- Q. Change of Use. The CITY agrees to comply with applicable change of use provisions contained in 24 CFR 570.505 (refer to Attachment C).
- R. Reversion of Assets. Upon expiration or termination of this Agreement, CITY shall transfer to COUNTY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Also for any real property under CITY'S control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to CITY in the form of a loan) in excess of \$25,000 or less based on the CDBG amount shall ensure said real property is either:
 - 1. Used to meet one of the National Objectives in 24 CFR 570.208 for the term of this Agreement; or
 - 2. Not used to meet on the National Objectives for the term of this Agreement, in which event, the CITY shall pay to COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

VI. Amendment

This Agreement may be amended at any time with the concurrence of both Parties. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

VII. Term of Agreement

- A. This Agreement becomes effective when it is signed by both Parties.
- D. The term of this Agreement is a period beginning when it becomes effective and ending fifteen (15) years after completion of the PROJECT.
- E. This Agreement may be suspended or terminated prior to the expiration of its term by:
 - 1. Written notice provided to the COUNTY from the CITY before any materials or services for improvements are procured; or
 - 2. Written notice provided by the COUNTY resulting from material failure by the CITY to comply with any term of this Agreement; or
 - 3. Mutual agreement by the COUNTY and CITY.
- D. Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with the COUNTY.

VIII. Integration

This Agreement contains the entire agreement between the CITY and the COUNTY and supersedes all prior written or oral discussions.

IX. Severability

If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

X. Oregon Law and Forum

This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of laws provisions thereof. Any claim, action, or suit between CITY and COUNTY that arises out of or relates to the performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim,

action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

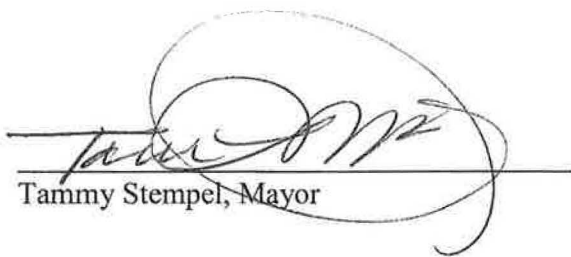
XI. Waiver

The CITY and COUNTY shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

[Signature Page Follows]

CITY OF GLADSTONE

525 Portland Avenue
Gladstone, Oregon 97027



Tammy Stempel, Mayor

9/7/2018

Date

CLACKAMAS COUNTY

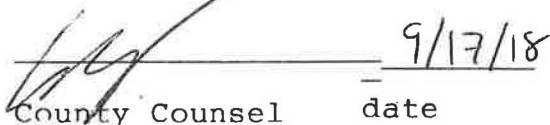
Chair Jim Bernard
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader

Signing on Behalf of the Board.

Richard Swift, Director
Health, Housing & Human Services
Department

Date

Approved as to form



County Counsel 9/17/18
date

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #1 to Intergovernmental Agreement #155318 with the State of Oregon, Department of Human Services (DHS), for the operation of the Supplemental Nutrition Assistance Program (SNAP) Employment & Training

Purpose/Outcomes	To administer employment and training services to participants on the Supplemental Nutrition Assistance Program (SNAP)
Dollar Amount and Fiscal Impact	This intergovernmental provides an additional \$67,090.35 in revenue, for a total contract of \$93,921.82
Funding Source	State of Oregon. No County General Funds are involved.
Duration	Original contract is effective October 1, 2017 and terminates on September 30, 2022. Funding listed in the amendment is for the period from October 1 st , 2018 to September 30 th , 2019
Previous Board Action	The original contract was approved by the Board of County Commissioners on September 28 th , 2017.
Strategic Plan Alignment	1. Provide customized employment services to individuals with barriers to employment, and business partners, so they can obtain and retain meaningful employment through a successful job placement. 2. Ensure safe, healthy and secure communities
Contact Person	Jennifer Harvey, Employment & Training Svcs Manager - 503-655-8843
Contract No.	H3S / CSCC 8501

BACKGROUND:

Community Solutions for Clackamas County (CSCC), a division of Health, Housing and Human Services Department requests the approval of Amendment #1 to the Intergovernmental Agreement with the State of Oregon, Department of Human Services to serve participants of the Supplemental Nutrition Assistance Program (SNAP). Clientele will be referred to CSCC from other agencies to receive the job search training, work experience, employment placement and retention services required to obtain and retain meaningful employment.

This contract amendment has been reviewed and approved by County Counsel on September 10th, 2018.

RECOMMENDATION:

Staff recommends the Board approval of this amendment and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,


Richard Swift, Director
Health, Housing & Human Services

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us



Agreement Number 155318

**AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This is amendment number **01** to Agreement Number **155318** between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as "DHS" and

**Clackamas County
Acting by and through its Department of Health, Housing and Human Services
(Community Solutions for Clackamas County)
112 11th Street
Oregon City, Oregon 97045
Contact: Scott Vandecoevering
Telephone: (503) 655-8844
Facsimile: (503) 655-8841
E-mail address: scottvan@clackamas.us**

hereinafter referred to as "County."

1. This Amendment shall become effective on the date this Amendment has been fully executed by every party and, when required, approved by the Department of Justice, or on October 1, 2017, whichever date is later.
2. The Agreement is hereby amended as follows. Where appropriate, language to be deleted or replaced is [~~bracketed and struck through~~]; new language is **underlined and bold**:

(Remainder of page intentionally left blank)

- a. **Page 1 of the Agreement**, also known as the Agreement face sheet, is hereby amended to change the DHS Agreement Administrator, as follows:

Office of Self Sufficiency Programs
Supplemental Nutrition Assistance Program (SNAP)
500 Summer Street NE, E48
Salem, Oregon 97301

Agreement Administrator: [~~Belit Burke~~] **John Briscoe** or delegate
Telephone: [~~(503) 947-5389~~] **(503) 945-5600**
Facsimile: (503) 373-7032
E-mail address: [~~belit.burke@state.or.us~~] **john.briscoe@state.or.us**

- b. **Section 3 “Consideration,” subsection (a)** of the Agreement is hereby amended to increase the total not-to-exceed amount of the Agreement, as follows:
- a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is [~~\$26,381.47~~] **\$93,921.82**. DHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.
- c. Effective October 1, 2018, **Exhibit A Part 1 “Statement of Work”** of the Agreement is hereby updated, clarified and amended, as follows:

EXHIBIT A

Part 1
Statement of Work

County shall deliver the services, as described in this Agreement, to assist Supplemental Nutrition Assistance Program (SNAP) Participants to obtain the training, work experience, employment placement and support services required to become employed. County shall deliver the services in accordance with Title 7, Part 273.7 (Work Provisions) of the Code of Federal Regulations as well as the provisions set forth below.

1. The Department of Human Services (DHS) shall determine the following:
 - a. **SNAP Eligibility**
 - b. Identify which SNAP Participants are ‘Able Bodied Adults Without Dependents’ (ABAWD). The authority to determine eligibility resides exclusively with DHS.
2. The County shall be responsible for the following:
 - [•] a. County shall deliver the services specified in this Statement of Work. [~~In order to~~] **To** be eligible to receive Agreement Services, the person must be a SNAP recipient, **as determined by DHS**, and not in receipt of ‘Temporary Assistance for Needy Families’ (TANF) benefits.
 - [•] b. County shall verify SNAP participant is not in receipt of TANF benefits by accessing the iMatchSkills tool. The iMatchSkills

database will be used to collect participant information which may include SNAP eligibility, services received, or plans developed.

- [•] c. In addition, the person must not be enrolled in an in-patient drug or alcohol treatment facility.
- ~~[•] County shall provide the service components to ABAWD (subject to SNAP time limits) and volunteer non-ABAWD participants who are age 16 or older.]~~
- [•] d. Documenting and entering timely and accurate program and participant information in the iMatchSkills database, such as the services provided, progress, ~~[and]~~ actual attendance, **and the individual's ABAWD status as determined by DHS.**
- [•] e. Conducting individual assessments and ~~[create]~~ **creating** case plans.
- [•] f. Contacting participants through telephone, voicemail, written notes or other electronic means.

3. ~~[E&T]~~ **Employment and Training (E&T)** Services and Activity Components

County and DHS will collaborate to determine an agreed upon process for referring Participants to E&T services. County shall provide the following services to SNAP eligible participants:

a. E&T Assessment

The County shall conduct an assessment for E&T services for each participant. The E&T assessment shall be conducted in person to evaluate the participant's employability factors.

b. E&T Case Plan

- (1) County shall use an agreed upon form for E&T case plan for each E&T Participant.
- (2) County shall provide information to the participant regarding appropriate E&T services and activities. County shall also provide referrals, when available, **to other STEP providers and community resources when appropriate for the Participant's case plan.**
- (3) County shall enroll each E&T participant in an E&T component(s) pursuant to the Participant's case plan.
- (4) Each active E&T case plan shall be signed and dated by the County. The components of the active E&T case plan shall include the following information:
 - (a) The E&T component(s) in which the participant engages in.
 - (b) The E&T support services the participant receives.

- (c) The projected duration of the E&T services and activities.
- (d) The expectations of the E&T participant for attendance, compliance and cooperation with DHS and County rules.
- (e) Contact information, including instructions on how and in what time frame to notify the County, if participant cannot participate according to the plan.

c. E&T Components

County shall only provide services for E&T participants with a case plan. E&T services shall be provided through specific, allowable components **that have been approved by DHS through the County's STEP proposal.**

County must offer at least one of the job components listed from the menu of services [~~limited to these~~] described below:

- (1) Job Search Component: [~~Clients~~] **Participants** who are work ready (as determined by assessment), recently unemployed, or prefer job search to other components will be referred to this component. **This component may be designed so that the participant conducts their job search independently or within a group setting.**
- (2) Job Search Training Component: A component that strives to enhance the job search skills of participants by providing instruction in job seeking techniques and increasing motivation and self-confidence. The component may consist of job skills assessments, job finding clubs, job placement services, or other direct training or support activities.
- (3) Other Employment-Related Activities: These services are designed to provide the E&T participant additional assistance in becoming more employable. County shall provide the following services:
 - (a) Adult Basic Education (ABE), General Equivalency Diploma (GED) or basic skills enhancement or remediation: Programs that offer academic instruction and education services below the postsecondary level that increase an individual's ability to read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent; transition to postsecondary education and training; and obtain employment.

- (b) English as a Second Language (ESL): A component designed to help English language learners achieve competence in reading, writing, speaking, and comprehension of the English language.
- (c) Work Experience (Supported Work): A work component designed to improve the employability of participants through actual work experience and/or training. Work experience assignments may not replace the employment of a regularly employed individual, and they must provide the same benefits and working conditions provided to regularly employed individuals performing comparable work for comparable hours. It is permissible to place E&T participants in work experience positions with private sector entities.
- (d) Short-term Vocational Training: Organized activities at the post-secondary level that provide individuals with the academic and technical knowledge and skills necessary to prepare for further education and for careers in current or emerging employment sectors. Programs are primarily designed for those who are beyond the age of compulsory high school attendance. **This includes, but is not limited to, college classes, apprenticeships, and career technical education.**
- (e) Job Retention: [~~Job retention services will be offered for up to 90 days to E&T participants who gain employment after participating in another E&T component.~~] **A maximum of 90 days of job retention services may be provided to individuals who have secured employment and are no longer participating in another E&T component, even if the individual is no longer participating in SNAP. Only individuals who have received other employment or training services under the E&T program are eligible for job retention services.**
- (f) **County shall contact each participant within 30 calendar days of enactment of the case plan to confer with the participant regarding their progression in the case plan.**

4. E&T Support Services

- (a) E&T support services are provided to enable participants to cooperate with their case plan and

attain the goals contained therein. E&T support services shall be provided to defray participant expenditures for transportation, work tools, uniforms, and other costs related directly to a service component as stipulated by the participant's case plan. E&T support service payments for basic living expenses such as rent, utilities, and food are not allowed under E&T program rules. In addition, E&T support service payments for stipends and wages are not allowed under E&T program rules.

- (b) A list of support service payments shall accompany the quarterly County invoice in accordance with Quarterly E&T Billing Report, of this Agreement.

4. Civil Rights Training

Civil Rights Training is required so that people involved in all levels of administration of programs that receive federal financial assistance understand civil rights related laws, regulations, procedures, and directives. The federal Food and Nutritional Services (FNS) and County will require DHS administered Civil Rights training on an annual basis for individuals that work with the SNAP program or recipients of SNAP benefits. County will be required to track the name of the staff person taking the training, the date the training is completed and will retain these training records for a period of three years.

5. Privacy and Confidentiality Training for iMatchSkills

Privacy and confidentiality training is required for County to access the iMatchSkills tool. iMatchSkills is a mandatory component to the E&T program to verify SNAP eligibility and to track participant's components and outcomes.

6. Performance Reporting

- a. County shall record, track, and compile data monthly on participant's engagement in STEP and on [~~County~~] **County's** progress in attaining the Agreement performance measures, as described in Section 7 "Agreement Performance Measures" of this Statement of Work. County shall report this information to DHS on a quarterly basis using the provided E&T Performance & Outcomes Report.
- b. County shall record, track and report support service expenditures to DHS on a quarterly basis. The report will include the amount of support service dollars already expended and the anticipated amount needed for the balance of the Agreement period.
- c. County shall record, track and report the number of job placements E&T Performance & Outcome Report.

- d. County may provide additional performance related information which illustrates E&T program success.
 - e. Invoices, [and] Performance & Outcomes Reports **and quarterly feedback forms** will be due **to DHS** no later than the 30th day of the following month.
7. Agreement Performance Measure
- a. Target Number

In the performance of the work required under this Agreement, County shall strive to attain the **following** targeted number of E&T Participants served, in accordance with the approved criteria.

 - (1) For the period October 1, 2017 through September 30, 2018: Number of E&T participants Served – Target: 83.
 - (2) **For the period October 1, 2018 through September 30, 2019: Number of E&T participants Served – Target 60.**
 - b. Numbers Served Criteria
 - (1) Participants served reflect the number of E&T participants who, during the FFY periods of October 1, 2017 through September 30, 2018 **and October 1, 2018 through September 30, 2019**, meet at least one of the criteria listed below:
 - (a) Participate in an assessment.
 - (b) Develop a case plan with County staff.
 - (c) Update a case plan for new or additional E&T components with County staff.
 - (d) Participate at least one hour in a program component.
 - (e) Receive support service payments for participation in a program component.
 - (2) DHS participant engagement may be recounted during this time period if the participant engaged in:
 - (a) Multiple E&T activities, or
 - (b) Multiple months.
8. E&T Program Review
- County shall, upon request by DHS, participate in ongoing E&T program review in the E&T program:
- a. An account of County progress in achieving the Agreement performance measures, as described in Section 7, “Agreement Performance Measures”, of this Statement of Work; and

b. Technical assistance in the DHS effort to increase the rate of employment, household income, family stability and self-sufficiency of E&T participants.

d. **Exhibit A Part 2 “Payment and Financial Reporting,” section 1 “Payment Provisions,” subsection (a)** of the Agreement is hereby amended to include additional funding as new paragraph (4), as follows:

a. County shall not submit payment requests for, and DHS will not pay, any amount in excess of the maximum compensation amount set forth in Section 3. “Consideration” of this Agreement. DHS shall reimburse County for allowable services and expenditures under this Agreement at 50 percent of the costs incurred up to the amounts set forth in the budget categories below per Title 7, Part 273.7 (Work Provisions) of the Code of Federal Regulations. Payments for Services shall not exceed the amount assigned to the Budget Categories and time periods specified below.

(1) From October 1, 2017 through September 30, 2018:

E&T Service Delivery	\$24,756.47
Support Services	\$2,075.00
Total Budget	\$26,831.47

(2) From October 1, 2018 through September 30, 2019:

<u>Program</u>	<u>\$57,090.35</u>
<u>Support Services</u>	<u>\$10,000.00</u>
<u>Total Budget</u>	<u>\$67,090.35</u>

e. **Exhibit A Part 2 “Payment and Financial Reporting,” section 2 “Invoices,”** of the Agreement is hereby amended to add **subsection (f)**, new to the Agreement, as follows:

f. Invoices received after the due date shall be paid, when approved by DHS, subject to federal funding availability.

f. **Exhibit A Part 2 “Payment and Financial Reporting,” section 3 “DHS and County Contacts,” subsection (d)** of the Agreement is hereby amended, as follows:

d. DHS employee assigned to monitor Agreement compliance, authorize payment, and act as DHS’ Agreement Administrator on matters concerning this Agreement shall be:

[Belit-Burke,] **John Briscoe** or delegate
Department of Human Services
Office of Self-Sufficiency Programs
Supplemental Nutrition Assistance Program (SNAP)
[Food Stamp Employment and Training Program (OFSET)]
500 Summer Street NE, E-48
Salem, Oregon 97301-1066
Telephone: [(503) 947-5389] **(503) 945-5600**

Facsimile: (503) 373-7032

Email: [belit.burke@state.or.us] john.briscoe@state.or.us

- g. **Exhibit A Part 3 “Special Provisions,” section 7 “Nondiscrimination”** of the Agreement is hereby amended to expand nondiscrimination language, as follows:
7. Nondiscrimination
- a. The County must provide services to DHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). County services must reasonably accommodate the cultural, language and other special needs of clients.
- b. County certifies that County has a written policy and practice that meets the requirements described in House Bill 3060 (2017 Oregon Laws, chapter 212) for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. County agrees, as a material term of this Agreement, to maintain such policy and practice in force during the entire Agreement term.
- h. **Exhibit B “Standard Terms and Conditions,” Section 25 “Notice”** of the Agreement is hereby amended to update and correct DHS’ address for communications or notices, as follows:
- DHS:** Office of Contracts & Procurement
[250 Winter Street, Room 309] 635 Capitol Street NE Suite 350
Salem, Oregon 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324
- i. Effective October 1, 2018, **Exhibit C “Subcontractor Insurance Requirements”** is hereby superseded and restated in its entirety, as set forth in **Exhibit C “Subcontractor Insurance Requirements,”** attached hereto and incorporated herein by this reference.
- j. Effective October 1, 2018, **Exhibit D “Federal Terms and Conditions”** is hereby superseded and restated in its entirety, as set forth in **Exhibit D “Federal Terms and Conditions,”** attached hereto and incorporated herein by this reference.
3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect. County certifies that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.
4. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement amendment, the County hereby certifies under penalty of perjury that:

- a. The County is in compliance with all insurance requirements in Exhibit C of the original Agreement and notwithstanding any provision to the contrary, County shall deliver to the DHS Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance for any extension of the insurance coverage, within 30 days of execution of this Agreement Amendment. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
- b. The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;
- c. The information shown in County Data and Certification, of original Agreement or as amended is County's true, accurate and correct information;
- d. To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- e. County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- f. County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Nonprocurement Programs" found at: <https://www.sam.gov/portal/public/SAM/>;
- g. County is not subject to backup withholding because:
 - (1) County is exempt from backup withholding;
 - (2) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (3) The IRS has notified County that County is no longer subject to backup withholding.

h. County Federal Employer Identification Number (FEIN) provided to DHS is true and accurate. If this information changes, County is required to provide DHS with the new FEIN within 10 days.

5. **County Data.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

County Name (exactly as filed with the IRS): Clackamas County

Street address: 2051 Kaen Rd.

City, state, zip code: Oregon City, OR 97045

Email address: rodcoo@clackamas.us

Telephone: (503) 655-8842 Facsimile: (503) 655-8841

Proof of Insurance: County shall provide the following information upon submission of the signed Agreement amendment. All insurance listed herein and required by Exhibit C of the original Agreement, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: self-insured

Policy #: N/A Expiration Date: N/A

(Remainder of page intentionally left blank)

6. Signatures.

COUNTY: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

Clackamas County, acting by and through its Department of Health, Housing and Human Services

By:

Authorized Signature

Printed Name

Title

Date

State of Oregon acting by and through its Department of Human Services

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Not Required per OAR 137-045-0030(1)(a)

Department of Justice

Date

**EXHIBIT C
SUBCONTRACTOR INSURANCE**

Local Government shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

TYPES AND AMOUNTS

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the Agency. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for

the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.00

EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL COVERAGE REQUIREMENTS:

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

ADDITIONAL INSURED:

The Commercial General Liability insurance and Automobile liability insurance required under the Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Subcontract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Subcontract, for a minimum of 24 months following the later of (i) Contractor's completion and Local Government's acceptance of all Services required under this Subcontract, or, (ii) The expiration of all warranty periods provided under this Subcontract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Local Government shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

The Contractor or its insurer must provide at least 30 days' written notice to Local Government before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Local Government.

STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit C.

(Remainder of page intentionally left blank)

EXHIBIT D

Federal Terms and Conditions

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. **Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
3. **Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all

contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the County certifies, to the best of the County's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. The County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any federal funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h. No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **Resource Conservation and Recovery.** County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
7. **Audits.**
- a. County shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
 - b. If County expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to DHS within 30 days of completion. If County expends less than \$750,000 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance, Access".
8. **Debarment and Suspension.** County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or

Non-procurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension”. (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. **Drug-Free Workplace.** County shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing services to DHS clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither County, or any of County's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the County or County's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the County or County's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.
10. **Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).

11. **Medicaid Services.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).
12. **Agency-based Voter Registration.** If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
13. **Disclosure.**
 - a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed

care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. County shall make the disclosures required by this Section 13. to DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

14. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The County agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”

- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.

September 27, 2018

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of Multiple Agency Services Agreements with Home Energy Suppliers
 For Reimbursement of Energy Supplies on Behalf of Low-Income Households.

Purpose/Outcomes	Home Energy Suppliers provide energy supplies (wood, oil, electricity, natural gas) to eligible low-income households.
Dollar Amount and Fiscal Impact	These are no maximum agreements that provide reimbursement to Home Energy Suppliers and are dependent upon eligible household applications.
Funding Source	State of Oregon, Low-Income Energy Assistance Program (LIHEAP)
Duration	October 1, 2018 to September 30, 2020
Previous Board Action	None.
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	In process

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services requests approval of Agreements with multiple Home Energy Suppliers during the duration of the agreement term. Through Social Services' Energy Assistance program, Home Energy Suppliers provide energy supplies (wood, oil, electricity, natural gas) to eligible low-income households. This program serves Clackamas County residents with a gross monthly household income at or below 60% of the Oregon median income. In FY 2017-2018, assistance was provided to 5,061 eligible households.

These agreements allow Social Services to provide reimbursement for energy supplies to the Home Energy Suppliers on behalf of an eligible household. The Home Energy Suppliers agree to supply an identified, pre-determined dollar amount of home energy supplies within guidelines outlined in the agreement. The dollar amount allocated per household is determined by the State of Oregon based on a matrix of the State's design, which considers household type, heating source, number of individuals, and status of household members; e.g. elderly residents, small children, disabled.

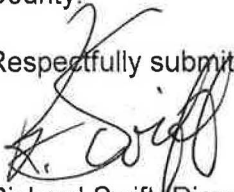
The agreements are in the process of being signed by Home Energy Suppliers, and need to be in place prior to October 1, 2018. Agreements are late due to the late release of the approved boilerplate by the State. County Counsel reviewed and approved the boilerplate agreement on September 6, 2018. No County General Funds are involved. These agreements cover a 2 year period from October 1, 2018 to September 30, 2020 and funding is

from the State Oregon Housing & Community Services Department, Low Income Energy Assistance Program (LIHEAP).

RECOMMENDATION:

Staff recommends the Board approve agreements with Home Energy Suppliers that apply for the agreement term and that Richard Swift, H3S Director, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", written over the text "Respectfully submitted,".

Richard Swift, Director
Health, Housing and Human Services Department

OREGON LOW INCOME ENERGY ASSISTANCE AGREEMENT

This Oregon Low Income Energy Assistance Agreement ("Agreement") is entered into between Clackamas County, acting by and through its Department of Health, Housing, and Human Services, Social Services Division ("Agency") and [REDACTED], Home Energy Supplier ("HES"). Agency and HES may each be referred to as a "Party," or collectively as the "Parties." The State of Oregon, acting by and through its Housing and Community Services Department ("OHCS") is a third-party beneficiary of this Agreement

WHEREAS, the Parties desire to provide a mechanism by which they can carry out the provisions of the Low Income Home Energy Assistance Program and the Oregon Energy Assistance Program ("LIHEAP/OEAP" or "Programs"), and

WHEREAS, the Parties desire to assure that the funds available under these Programs are used in accordance with the requirements of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), Title VI of the Human Services Reauthorization Act of 1984 (P.L. 98-558) and Title VII of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (P.L. 101-501), and

WHEREAS, no HES shall be paid without signing an agreement for receipt of payments under the Programs ("Agreement"),

THEREFORE, in exchange for the mutual promises contained herein, the Parties agree to the terms and conditions set forth below.

1. Definitions

- 1.1 An "**Eligible Household**" is a household or customer that has applied for and been approved for energy assistance by the Agency by means of an Energy Assistance Authorization.
- 1.2 "**Account Payments**" or "**Payments**" are payments made by the Agency to the HES on behalf of an Eligible Household and may include pre-payment for fuel prior to its delivery, payment for bills incurred by the Eligible Household prior to the date of the application for LIHEAP/OEAP assistance, and/or a line of credit for future usage.
- 1.3 "**Energy Assistance Authorization**" is a form that will contain the Eligible Household's utility account number; the name of the person applying for energy assistance; the name appearing on the HES account for the eligible Household; the address of the Eligible Household; and the amount of the energy assistance for which the household is eligible.

2. Agency Conditions

- 2.1 The Agency shall notify the HES of Payments to be made on behalf of an Eligible Household with an Agency report or a copy of the Energy Assistance Authorization. If HES has an Agency portal, Agency can directly input commitments into the portal and no written notification is necessary. If the

Eligible Household is at risk for disconnection, the notification may be oral, but must be verified with a follow-up written report or authorization. All other notifications must be in writing.

- 2.2 The Agency shall pay all valid Energy Assistance Authorizations promptly and in no event later than 45 days after notifying the HES of a commitment for an Eligible Household.
- 2.3 The Agency shall notify all Eligible Households of the amount of Account Payments made on their behalf to the HES.
- 2.4 The Agency shall keep the HES informed in a timely manner of any relevant changes in LIHEAP/OEAP caused by changes in federal or state law.

3. HES Conditions

Conditions Applicable to All Home Energy Suppliers

- 3.1 The HES may refer its customers to the Agency for assistance.
- 3.2 The HES may charge an Eligible Household, in the normal billing process, the difference, if any, between the actual cost of the home energy used by that Eligible Household and the Account Payment.
- 3.3 The HES shall not discriminate, either in the cost of goods supplied or the services provided (including service charges, reconnection charges, and payment plan arrangements) against the Eligible Household. If the HES is a Public Utility Commission ("PUC") regulated utility, it shall adhere to the requirements in ORS 757.310, ORS 757.325, PUC administrative rules and the regulated utility's PUC-approved tariffs.
- 3.4 Consistent with applicable state law and PUC regulations, no Eligible Household receiving assistance under LIHEAP/OEAP will be treated adversely because of such assistance.
- 3.5 A credit notation shall be promptly applied by the HES to the Eligible Household's account as soon as the HES receives an Energy Assistance Authorization. If possible, a line identifying the Payment as LIHEAP/OEAP funds will appear on the billing statement after the Account Payment has been received by the HES and for as long as any portion of the Account Payment is being carried as a credit. Account Payments will be credited to the Eligible Household's account promptly after being received by the HES and in no event later than the next billing cycle. If the Eligible Household's account billing includes items other than energy charges, Account Payments may only be applied as a credit toward energy charges. If the Account Payment or credit cannot be applied to energy charges, the balance remaining shall be returned to the Eligible Household within 30 days after the HES receives the Account Payment.

HES has no obligation to apply such credit to an Eligible Household's account unless and until Agency has agreed in writing to the terms and conditions of this Agreement.

- 3.6 Reconnection charges or security deposits charged to Eligible Households will be the same as those charged to all other residential customers or, for regulated utilities, will be consistent with approved tariffs. LIHEAP/OEAP Payments can be applied to those charges, if necessary. All deposits and accrued interest become the property of the Eligible Household and shall be returned to the Eligible Household at the time specified in the deposit agreement in a manner consistent with applicable PUC administrative rules, approved tariffs and other law.
- 3.7 If the Eligible Household voluntarily closes the account, and an Account Payment results in a credit balance after all final charges have been applied, the credit balance shall be refunded to the Eligible Household.
- 3.8 In the event the Eligible Household cannot be located within one year after service has been discontinued for any reason, then any unused portion of the Account Payment shall be returned to the Oregon Department of State Lands as unclaimed property.
- 3.9 The HES shall maintain an adequate accounting system to allow verification of the amount of home energy delivered to Eligible Households receiving Account Payments. Auditors and/or investigators of Oregon Housing and Community Services, the Oregon Secretary of State's Office, or the federal government shall be allowed access to all HES LIHEAP/OEAP records, which auditors or investigators determine are directly pertinent to this Agreement and reasonably needed to monitor and review the HES compliance with the provisions of this Agreement. The HES shall cooperate in the conduct of such reviews.
- 3.10 Provided that the Agency has obtained the Eligible Household's prior consent, the HES agrees, in accordance with any applicable tariff, to provide information on home energy costs and consumption, bill payment history, and/or arrearage history at no cost if requested by the household, the agency, or OHCS.
- 3.11 Agency shall inform the HES if an Eligible Household is in a crisis or life-threatening situation (as determined by local agency criteria).
- 3.12 PUC Regulated HES: Upon notification of a commitment for assistance, the PUC regulated HES shall assist the Agency in resolving the energy crisis of an Eligible Household within the timelines established by PUC administrative rules, the regulated utility's PUC-approved tariffs applicable to disconnection and reconnection of service, and emergency medical certificates.
- 3.13 Non-PUC regulated HES: Upon notification of a commitment, the non-PUC regulated HES shall assist the Agency in resolving the energy crisis of an Eligible Household within one (1) business day.
- 3.14 If the HES is unable to assist the Agency in resolving the issue within the timeframes described in Sections 3.12 and 3.13 above, the Agency shall be

notified immediately. Upon request, a written explanation of the reason(s) for non-compliance will be prepared by the HES and submitted to the Agency for placement in the Eligible Household's file.

Conditions Applicable Only to Bulk Energy Suppliers

- 3.15 Delivery of bulk fuel shall be made after the HES receives an oral or written Energy Assistance Authorization. Verification of delivery to an Eligible Household may be required by the Agency before an Account Payment is made. If the Eligible Household has an existing account with the HES and a balance is still owed after the Account Payment is applied, the HES should develop a payment plan with the Eligible Household.
- 3.16 Bulk fuel deliveries will be made in accordance with the normal business practices of the HES.
- 3.17 The HES shall only charge the Eligible Households up to its posted cash price as of the date of delivery.
- 3.18 In the event that the HES cannot deliver bulk fuel, the Agency will be notified immediately. If an Account Payment has been made, the full amount of the Account Payment shall be returned within 20 days of the receipt of the funds to the Eligible Household or forwarded to the new HES at the Eligible Household's request.
- 3.19 In the event that services cannot be delivered by the HES because the Eligible Household has been disconnected for non-payment of service and cannot be reconnected because the Eligible Household will not enter into a payment agreement under terms acceptable to the HES, the HES will send to the Eligible Household any Account Payment received by the HES on behalf of the Eligible Household within 10 days after the date on which a payment agreement could not be reached. If the HES has not yet received the Account Payment, the HES will notify the Agency to send the payment directly to the Eligible Household.

4. Termination

- 4.1 This Agreement shall terminate upon the earliest to occur of the following events:
 - (a) A change in the requirements of Title VII of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (P.L. 101-501) ("Act");
 - (b) A change in the federal or state regulations promulgated under the Act;
 - (c) A change in the state plan for administering LIHEAP/OEAP that affects the terms and conditions of this Agreement;
 - (d) Thirty days' written notice of termination by either Party;
 - (e) Mutual consent of the Parties;
 - (f) Any license or certificate required by law or regulation to be held by the HES to provide the services required by this Agreement is for any reason denied, revoked, or not renewed; or

(g) The end of LIHEAP program year which begins on October 1, 2018 and ends on September 30, 2020.

- 4.2 Termination by either Party shall not discharge any obligation owed by either Party to the other or to an Eligible Household or any liability, which has accrued prior to termination.
- 4.3 The Agency, by written notice of default (including breach of contract) to the HES may terminate the whole or any part of this Agreement if the HES fails to perform any of the provisions of this Agreement in accordance with its terms, and after receipt of written notice from the Agency fails to correct such failures within 10 days or such longer period as the Agency may authorize.
- 4.4 The rights and remedies of either Party provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

5. Miscellaneous

- 5.1 **Subcontracts** - The HES shall not enter into any subcontracts for any of the services provided under this Agreement without obtaining prior written approval from the Agency.
- 5.2 **Amendments** - The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever except by written instrument signed by the Parties.
- 5.3 **Execution and Counterparts** - This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- 5.4 **Severability** - If any court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.
- 5.5 **Assignment** - The HES shall not assign or transfer its interest in this Agreement without the express written consent of the Agency.
- 5.6 **Waiver** - The failure by a Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- 5.7 **Independent Contractors/Workers' Compensation Coverage** - The HES and the Agency are independent contractors under this Agreement and both covenant, warrant and affirm that neither they nor any of their agents, representatives or employees are an officer, employee, or agent of the other Party, of OHCS or of the State as those terms are used in ORS 30.265, ORS chapters 456 and 458 or otherwise. The HES and the Agency further covenant, warrant and affirm that they shall provide workers' compensation insurance for their respective Oregon employees and require by contract that their subcontractors shall provide workers' compensation insurance for their respective Oregon employees.
- 5.8 **Indemnity** - Subject to any applicable limitations in the Oregon Constitution and the Oregon Tort Claims Act, each Party (the "Indemnifying Party") shall save, defend (consistent with ORS chapter 180), indemnify and hold harmless the other Party, OHCS and each of their officers, agents, employees and members (the "Indemnified Parties") from all claims, suits or actions of whatsoever nature (collectively, "Claims") to the extent resulting from or arising out of the negligent or wrongful acts or omissions of the Indemnifying Party or its subcontractors, agents, or employees in its performance or non-performance of its obligations under this Agreement unless such Claims primarily result from the Indemnified Party or Parties' negligence, gross negligence or willful misconduct. In no event shall either Party be liable to the other for Claims in an amount more than \$50,000 per event.
- 5.9 **Successors in Interest** - The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and assigns.
- 5.10 **Force Majeure** - A Party shall not be held responsible for delay or default as a result of an event or action beyond its reasonable control, including without limitation, fire, riots, acts of God or war.
- 5.11 **Choice of Law** - This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to conflicts-of-laws rules or principles.
- 5.12 **Effective Date** - This Agreement shall be effective upon execution by both Parties.
- 5.13 **Merger** - This Agreement constitutes the entire Agreement between the Parties. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement. The HES, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.
- 5.14 **Mediation** - If the Parties become involved in a dispute regarding any of the terms, conditions, performance, or any obligations under this Agreement, the Parties shall submit to mediation prior to the commencement of litigation to

enforce this Agreement. The mediator shall be an individual mutually acceptable to both Parties, but in the absence of agreement, each Party shall select a temporary mediator, and the temporary mediators shall jointly select the permanent mediator. Each Party will pay its own costs for the time and effort involved in mediation and agrees to split equally the cost of the mediator. Both Parties agree to exercise best efforts and act in good faith to resolve all disputes in mediation. The Parties shall mutually agree on the schedule and time allowed for mediation. The Parties shall comply with statutes and administrative rules governing the confidentiality of mediation, if any.

- 5.15 **Headings** - The section headings in this Agreement are for convenience only and shall not be considered part of or used in the interpretation of this Agreement.
- 5.16 **HES Customer Information Confidentiality** - In the performance of its obligations under this Agreement Agency will receive or have access to Confidential Information concerning HES customers, including without limitation, customer names, social security numbers, addresses, account numbers, account payments and balances, and energy consumption data (collectively "HES Data"). Agency shall use appropriate safeguards to prevent the disclosure of HES Data to unauthorized third parties, and shall prevent Agency employees, agents or subcontractors from accessing, copying, disclosing, or using any such HES Data except as necessary to perform its obligations under the terms of this Agreement or as obligated under federal and state regulations. In the event of any actual or suspected HES Data security breach, disclosure or loss, Agency shall notify HES and OHCS immediately and agency shall cooperate with HES in complying with any laws or regulations that may apply to Agency or HES in such circumstances.
- 5.17 **Red Flag Rules** - The HES has implemented a program to detect, prevent and mitigate identity theft pursuant to the "Red Flag Rules" contained in 16 C.F.R. Part 681.1. Agency has established and will maintain reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft related to its administration of the LIHEAP/OEAP for HES customers. If Agency provides services to HES or its customers through agents or subcontractors, Agency shall be responsible for including reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft for the services provided by such agents or subcontractors.
- 5.18 **Funds Available and Authorized** - The Agency certifies that Federal Funds have been obligated to the Agency on this award. HES understands and agrees that payment of amounts under this Agreement is contingent on the Agency receiving appropriations or other expenditure authority sufficient to allow the Agency to continue to make payments under this Agreement.

5.19 **JURY WAIVER.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

OREGON LOW INCOME ENERGY ASSISTANCE AGREEMENT

HOME ENERGY SUPPLIER

(INSERT NAME OF SUPPLIER)

By: _____
(Signature)

Name (Printed)

Title (Printed)

Date

Address

City/State/Zip

Telephone Fax #

Tax ID (EIN)

AGENCY DIRECTOR

Brenda Durbin, Director
Social Services Division

Date

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humbertson
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on Behalf of the Board:

Richard Swift, Director
Health, Housing & Human Services
Department

Date

September 27, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement #44-0571, Amendment #6
with Multnomah County Dept. of County Human Services,
Aging & Disability Services Division

Purpose/Outcomes	To provide care transitions services for Medicare eligible persons who reside in Clackamas County who are being discharged after a hospitalization to reduce their chance of re-hospitalization.
Dollar Amount and Fiscal Impact	Amendment total is \$31,646 for a new total agreement of \$596,366. The contract is funded through the Multnomah County provider agreements with OHSU and Providence Health Systems
Funding Source	Local Funds - no County General Funds are involved.
Duration	Effective April 1, 2013 and terminates on December 31, 2021
Previous Board Action	072513-A5, 041615-A4, 041317-A4, 011118-A1
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	6331

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Amendment #6 to Agreement #44-0571 with Multnomah County, by and through its Aging, Disability and Veterans Services Division for the delivery of Care Transition services to Clackamas Residents. Clackamas County Social Services, as part of the Metro Aging & Disability Resource Connection Consortium (Metro ADRC), participates with the Metro Care Transitions Collaborative (MCTC) program which is a joint effort of the four Area Agencies on Aging in the region and four medical systems. Multnomah County Aging, Disability, and Veterans Services Division (Multnomah ADVSD) is serving as the lead agency and fiscal agent. This amendment adds funding and extends the termination date of the original contract.

The goal of the MCTC is to provide Coleman model care transition services to persons identified by the participating hospitals that meet the eligibility criteria. This 4-week community or hospital-based intervention program was developed by Eric Coleman. This approved evidenced based program utilized trained "transition coaches" to do a hospital visit, home visit, and three follow-up phone calls with eligible participants. The eligibility criteria for the program are: Medicare fee-for-service, resides

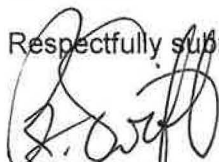
in one of the four participating counties, and has one of the targeted diagnoses and a primary or secondary reason for hospital admission. Persons that meet these criteria will receive coaching from a Care Transitions Coach to assist them in successfully transitioning back to home with minimal risk of re-hospitalization.

This agreement amendment is effective January 1, 2019 through December 31, 2021 and provides \$137,700 in continued funding. No County General Funds are involved in this agreement. This Amendment totals \$31,646 for a new revised total agreement of \$596,366. The original agreement was reviewed and approved by County Council on July 10, 2013.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Swift', is written over the text 'Respectfully submitted,'.

Richard Swift, Director
Health, Housing & Human Services

MULTNOMAH COUNTY
INTERGOVERNMENTAL AGREEMENT AMENDMENT
(Amendment to change Contract provisions during contract term.)

Contract Number 4400000571
Amendment No. 6

This is an amendment to Multnomah County's Contract referenced above effective January 1, 2019 between Multnomah County, Oregon, hereinafter referred to as County, and Clackamas County Social Services Division, hereinafter referred to as Contractor.

The parties agree:

1. The following changes are made to Contract No. 4400000571:
 - a. The term of the Contract shall be April 1, 2013 to December 31, 2021.
 - b. Intergovernmental Agreement 4400000571 is replaced in its entirety by the attached Intergovernmental Agreement 4400000571. Changes to this agreement include: removal of OHSU as participating Medical System, and specification of services to be provided to Providence Health Systems for the period January 1, 2019 through December 31, 2021, contingent upon continued funding from Providence Health System hospitals.
2. The estimated target value of this Contract for its term duration is increased to \$596,366.
3. All other terms and conditions of the Contract shall remain the same.

MULTNOMAH COUNTY, OREGON:

CONTRACTOR:

County Chair or Designee: Deborah Karmyjes
Date: 9/13/18
Dept Director or Designee: N/A
Date: _____

Signature: _____
Print Name: Richard Swift
Title: Director; Health, Housing & Human Services
Date: _____

REVIEWED:

JENNY M. MADKOUR
COUNTY ATTORNEY FOR MULTNOMAH COUNTY

By Jonathan Strauhull
Assistant County Attorney Approved via email by Jonathan Strauhull
Date: 9/7/2018

Approved as to form
by: _____
Date: _____

INTERGOVERNMENTAL AGREEMENT
Contract Number 4400000571

This is an Agreement between Clackamas County Social Services Division (Contractor) and Multnomah County (County), referred to collectively as the "Parties."

CONTRACTOR ADDRESS: P.O. Box 2950
CITY, STATE, ZIP: Oregon City, OR 97045

PURPOSE:

The purpose of this agreement is to purchase the services and establish the terms of the Metro Care Transitions Collaborative (MCTC), a joint effort of the four Area Agencies on Aging (AAA) and various medical systems in the Multnomah, Clackamas, Washington and Columbia County area. Multnomah County ADVSD will be serving as lead agency.

Community-Based Organizations (CBOs)	Medical Systems
Area Agencies on Aging	
Clackamas County Social Services (CCSS)	Providence Medical Center
Multnomah County Aging, Disability and Veterans Services (ADVSD)	Providence Milwaukie Medical Center
Washington County Disability Aging and Veterans Services (DAVS)	Providence St. Vincent Medical Center

PROJECT DESCRIPTION:

Multnomah County Aging, Disability and Veterans Services (ADVSD) will serve as the lead agency, with executive oversight from the Care Transitions Project Manager and with day-to-day operations and quality assurance provided by a Clinical Coordinator.

All participating healthcare systems have accepted the use of the Coleman model for care transitions (Coleman CTI). Care Transitions (CT) coaches will assist participating healthcare systems in identifying appropriate referrals for the program, make contact with patients, and begin the coaching process. Program participants will receive a visit in the hospital, one home visit within 48 – 72 hours following discharge, as well as up to three (3) follow-up phone calls. The area served by the Collaborative has rich diversity, and the Collaborative will use bi-lingual coaches or interpreter services to assure effective communication with program participants.

Data collection and analysis, as well as billing and fee distribution, will be managed by ADVSD's well-established fiscal reporting system. Quality assurance checks will be part of the ongoing process. A CT database, already in use in a CT pilot project, will be utilized by CBO partners for this project. Additionally, referral and assignment processes are already in place.

The parties agree as follows:

- 1. TERM.** The term of this agreement shall be from April 1, 2013 to December 31, 2021. This agreement may be renewed at the discretion of County.

2. **CONSIDERATION.** The estimated payment under this Contract, including expenses, is \$596,366 in requirements funding.
3. **RESPONSIBILITIES OF CONTRACTOR.** The Contractor agrees to perform the following tasks and deliverables:
- a. Multnomah County ADVSD will serve as lead agency and fiscal agent for the Collaborative. Contractor agrees to assign a lead staff person for this project, who will coordinate the program.

The CT program has been designed to provide for interactive cooperation between the Contractor, the other two participating contractors and participating healthcare systems.

Contractor will ensure that CT services will be provided by CT coaches who have completed required training provided by the Coleman CTI program and who meet the position qualifications. Contractor will identify one or more trained coaches to be assigned within their service area. It is anticipated that each coach will be able to complete a minimum of 24 home visits per 1.0 FTE CT Coach each month, for a total of approximately 296 participants served per year.

Contractor will coordinate with the MCTC Clinical Coordinator to ensure that Contractor CT coach(es) will be assigned to provide home visits and follow-up to Washington County program participants identified at Providence Portland Medical Center, Providence Milwaukie Medical Center, and Providence St. Vincent Medical Center. Contractor will not have responsibility for case finding at these facilities. The healthcare systems will provide either a list of eligible participants or access to medical records to the coach to aid in identifying patients that meet the criteria for the program as determined by the healthcare system. The site visit is completed by the designated CT coach to explain the CT program to the potential participant and their family members, including providing them with an informational brochure and acquainting them with the coach who will be visiting them at home. The designated CT coach will also enter participant and service information into the Collaborative's database, as required by ADVSD.

Once a patient accepts admission into the CT program, a designated CT Coach will enter participant information into the CT database and make the referral to the appropriately assigned CT Coach based on the zip code and county of the program participant's residential address.

A home visit by the CT coach to meet with the program participant, and their caregiver if possible, will occur within 2 business days of discharge. In addition, the CT coach will conduct three follow-up phone calls over the next 30 days. The Coleman CTI model is founded on the principle of patient-centered/directed practices. CT coaches use teach-back methods, coaching, and patient-activation methods to support the beneficiary and their support networks to help them establish skills that last far beyond the 30-day intervention. The home visit focuses on review of the discharge instructions and the four pillars of the Coleman model:

- review of the program participant's medication, with a focus on self-management of medications;
- planning for the follow-up appointment with physician;
- assuring the client understands potential red flags and complications which might occur; and
- completion of a personal health record and helping the program participant make note of any questions to ask their personal care physician or specialist at the follow-up appointment. The three follow-up phone calls within 30 days of discharge will focus on problem solving and patient activation.

The coach will work with the program participant and their family to ensure transportation is arranged for the physician visit and for other follow-up appointments, including to labs and pharmacy during the first week at home. If the program participant and their family identify any care or resource needs, the coach will assist by providing referrals for follow-up assistance and access to community services, including transportation.

b. Deliverables shall be sent or delivered to:

Multnomah County
 DCHS/Aging, Disability and Veteran Services Division
 Contract Deliverables
 P.O. Box 40488
 Portland OR 97204-0488

If submitting electronically, send to: ADS.Contracts@multco.us.

- c. Outreach Materials: Contractor will ensure that all outreach materials have been approved by the MCT Clinical Coordinator prior to distribution.
- d. Public Release of Information: Contractor will coordinate with the MCT Clinical Coordinator to ensure that report or analytic material based on information obtained through the project has been approved by ADVSD prior to release.
- e. Evaluation: Contractor agrees to cooperate fully with ADVSD in any evaluation of this program. This may include providing additional information and data, including beneficiary-specific information, regarding program operations, intervention models, patient targeting, and other functions.
- f. Program Performance Measures:

Client demographics and service data are entered in timely and accurate manner.	95% rate for accuracy and timeliness
CT Coaches and supervisory lead are actively engaged in program development.	CT Coach(es) and supervisory lead participate in program meetings/calls at least one time/month

- g. Reporting Requirements: Contractor agrees to utilize electronic client and service database system established by the County. Lead staff and CT Coaches will participate in training and technical assistance for data collection systems to ensure appropriate and accurate use of reporting tools. Contractor will ensure that CT Coaches enter client and service information into the electronic database in a timely, accurate and complete fashion. Monthly client data/service entry will be entered no later than the final day of the month in which services are provided.
4. **RESPONSIBILITIES OF COUNTY.** The County agrees to pay Contractor, upon submission of all deliverables and an invoice, an estimated \$596,366 in requirements funding including expenses. County will pay upon the conditions and terms indicated in #12 below.
 5. **TERMINATION.** This agreement may be terminated by either party upon thirty (30) day's written notice. Termination of this Agreement shall be without prejudice to expenses accrued prior to such termination.
 6. **INDEMNIFICATION.** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall indemnify, defend and hold harmless Contractor from and against all liability, loss and costs arising out of or resulting from the acts of County, its officers, employees and agents in the performance of this agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300 Contractor shall indemnify, defend and hold harmless County from and against all liability, loss and costs arising out of or resulting from the acts of Contractor, its officers, employees and agents in the performance of this agreement.
 7. **INSURANCE.** Each party shall each be responsible for providing worker's compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.
 8. **ADHERENCE TO LAW.** Each party shall comply with all federal, state and local laws and ordinances applicable to this agreement.

9. **NON-DISCRIMINATION.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
10. **ACCESS TO RECORDS.** Each party shall have access to the books, documents and other records of the other which are related to this agreement for the purpose of examination, copying and audit, unless otherwise limited by law.
11. **SUBCONTRACTS AND ASSIGNMENT.** Neither party will subcontract or assign any part of this agreement without the written consent of the other party.
12. **PAYMENT/BILLING.** This Contract will be paid on a Per-Invoice/Fee-for-Service/Requirements basis. Payment will be made for services to clients who are targeted at-risk patients at Providence Health Systems facilities identified by County staff. Payment will be made to Contractor contingent upon receipt of payment by County from Providence Health Systems for qualified clients and services.
- a. County will pay Contractor **\$200** for each program participant identified through Providence Health Systems who receives a home visit from a Care Transitions (CT) Coach. For services in the period from January 1, 2019 through December 31, 2021, County will pay Contractor \$200 each for:
 - i. Up to four hundred and fifty (450) program participants identified through Providence Health Systems who receive a home visit from a Contractor Care Transitions Coach **from January 1, 2019 through December 31, 2021, for a total of up to \$90,000.**
 - ii. **CONTINGENT FUNDING:** A continuation of current funding for calendar year 2019 has been tentatively approved for up to **one hundred fifty (150)** program participants identified through Providence Health Systems under this contract who receive a home visit from a Contractor Care Transitions Coach **from January 1, 2019 through December 31, 2019.** This funding is contingent upon the availability of additional funds from which payment for contract purposes can be made. No legal liability on the part of the County for any payment may arise until the additional funds are made available to the County for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the County.
 - b. County will pay Contractor **\$100** each for:
 - i. Up to four hundred seventy seven (477) program participants identified through case finding by Contractor Care Transitions Coach at Providence Milwaukie Medical or Providence Willamette Falls Medical Center who also received a home visit by a Care Transitions Coach **from January 1, 2019 through December 31, 2021, for a total of \$47,700.**
 - ii. **CONTINGENT FUNDING:** A continuation of current funding for calendar year 2019 has been tentatively approved for up to **one hundred fifty nine (159)** additional program participants identified through case finding by Contractor Care Transitions Coach at Providence Milwaukie Medical Center or Providence Willamette Falls Medical Center who receive a home visit from a Care Transitions Coach **from January 1, 2019 through December 31, 2019.** This funding is contingent upon the availability of additional funds from which payment for contract purposes can be made. No legal liability on the part of the County for any payment may arise until the additional funds are made available to the County for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the County.
 - c. The estimated total new funding for the period from January 1, 2019 through December 31, 2021 is **\$137,700.**
 - d. All requests for payment shall be sent to:

Multnomah County
 DCHS/Aging, Disability and Veteran Services Division
 Contract Deliverables
 P.O. Box 40488
 Portland OR 97204-0488

If submitting electronically, send to: ADS.Contracts@multco.us

e. Payments will be sent to:

Clackamas County Social Services
 P.O. Box 2950
 Oregon City, OR 97045

13. **ORS 190-COOPERATION OF GOVERNMENT UNITS.** This agreement does not constitute an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities of or for the other Party.

14. **FEDERAL FUNDS SUBRECIPIENT.** The Catalog of Federal Domestic Assistance (CFDA) number(s), title(s) and amount(s) of the Federal funds are shown below along with other required information about the Federal award per CFR200, Subpart D – Post Federal Award Requirements Standards for Financial and Program Management, Section §200.331 (see Attachment F). If this Contract is a subaward (making Contractor a subrecipient of Federal funds), Contractor shall conduct an audit as described under 2 CFR 200.500-521 (which replaces OMB Circular A-133) if such an audit is required by Federal regulations. If there is a change to funding for this Contract that adds Federal funding or changes existing funding to Federal, Contractor will be notified via a certified letter within 30 days.

CFDA #	Program Title	Program Amount
N/A	N/A	N/A

15. **FISCAL REQUIREMENTS.** Contractor agrees to the following if a Federal Funds Subrecipient:

- a. Contractor agrees to use, document, and maintain accounting policies, practices and procedures, and cost allocations, and to maintain fiscal and other records pertinent to this Contract consistent with Generally Accepted Accounting Principles (GAAP), Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Chapter I, Chapter II, Part 200), Oregon Administrative Rules, County financial procedure in the *Countywide Contractor's Fiscal Policies and Procedures Manual* located at: <http://web.multco.us/finance/fiscal-compliance>. Accounting records shall be up-to-date and shall accurately reflect all revenue by source, all expenses by object of expense and all assets, liabilities, and equities consistent with the Generally Accepted Accounting Principles, Oregon Administrative Rules, and County procedures. Reports and fiscal data generated by the Contractor under this Contract shall be accessible to County upon request.
- b. Contractor shall be subject to a County fiscal compliance review to monitor compliance with the County's financial reporting and accounting requirements. The review shall be completed periodically, as described in the *Countywide Contractor's Fiscal Policies and Procedures Manual*. If Contractor's corporate headquarters are out of state, Contractor agrees to pay travel costs incurred by County to conduct fiscal review. These costs include, but are not limited to, transportation to corporate headquarters, lodging, and meals.
- c. Contractor, if it is a state, local government or non-profit organization and a subrecipient of Federal funds, shall meet audit requirements of Office of Management and Budget (OMB) Uniform Administrative Requirements "Audits of States, Local Governments, and Non-Profit Organizations" (2 CFR Chapter I, Chapter II, Part 200), Subpart F (formerly OMB Circular A-133 December 25, 2014 and earlier).
- d. Contractor agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirements outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct, and related interpretation and rulings), the Oregon State Board of Accountancy, the independence rules contained within Government Auditing Standards (2003 Revision), and ruled promulgated by other Federal, State, and local government agencies with jurisdiction over Contractor. Those rules require that the Certified Public Accountant be independent in thought and action with respect to organizations who engage them to express an opinion on Financial Statements or to perform other services that require independence.

- e. Limited Scope and Full Audits, including the Management Letter associated with the audit, if issued, and all specifications identified in the County's *Fiscal Policies and Procedure Manual* shall be submitted to the County within thirty (30) days from the date of the report, but in no case later than nine (9) months after the end of the Contractor's fiscal year. Failure to submit required audits and Management Letter by specified deadlines shall be cause for withholding of Contract payments until audits are submitted.

16. ADDITIONAL TERMS AND CONDITIONS: N/A

- 17. THIS IS THE ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties. This Agreement may be modified or amended only by the written agreement of the parties.

COPY

September 27, 2018

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of Amendment #12 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County

Purpose/Outcomes	Reduces funding from the Oregon Health Authority for Program Element 03 – Tuberculosis Case Management within the Local Public Health Authority of Clackamas County.
Dollar Amount and Fiscal Impact	Amendment #12 decreases this Agreement by \$17,749 for a new Contract maximum value of \$6,109,944.
Funding Source	State of Oregon, Oregon Health Authority. No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2019
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, health and secure communities
Previous Board Action	The Board previously reviewed and approved this agreement on October 26, 2017 Agenda item 102617-A6, June 22, 2017, Agenda item 062217-A3 and October 5, 2017, Agenda item 100517-A2, April 12, 2018 Agenda item 041218-A2, June 7, 2018, Agenda item 060718-A11, June 14, 2018, Agenda item 061418-A3
Contact Person	Dawn Emerick, Public Health Director – 503-655-8479
Contract No.	8327-12

BACKGROUND:

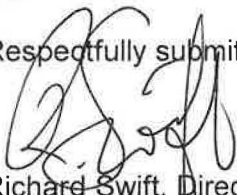
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #12 for the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. This Amendment reduces funding from the Oregon Health Authority for Program Element 03 – Tuberculosis Case Management within the Local Public Health Authority of Clackamas County, and decreases Agreement by \$17,749.

This Amendment is effective upon signature and continues through June 30, 2019. This contract has been reviewed by County Counsel on September 18, 2018.

RECOMMENDATION:

Staff recommends the Board approval of this amendment and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director
 Health, Housing, and Human Services

Healthy Families. Strong Communities.

Agreement #154103



**TWELFTH AMENDMENT TO OREGON HEALTH AUTHORITY
2017-2019 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Twelfth Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2017, and restated July 1, 2018 (as amended the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Clackamas County, acting by and through its Public Health Department ("LPHA"), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2019 (FY19) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200;

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows

AGREEMENT

1. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement for FY19 is hereby superseded and replaced in its entirety by Attachment A attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C as restated July 1, 2018, entitled "Explanation of Financial Assistance Award" of the Agreement.
2. Exhibit J "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" is amended to add to the federal award information datasheet as set forth in Attachment B, attached hereto and incorporated herein by this reference.
3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
6. The parties expressly ratify the Agreement as herein amended.
7. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

8. This Amendment becomes effective on the date of the last signature below.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

9. **Signatures.**

By: _____
Name: /for/ Lillian Shirley, BSN, MPH, MPA
Title: Public Health Director
Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
Name: Richard Swift
Title: Director, Health, Housing and Human Services
Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Agreement form group-approved by D. Kevin Carlson, Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on July 17, 2018, copy of email approval in Agreement file.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
Name: Mai Quach (or designee)
Title: Program Support Manager
Date: _____

**Attachment A
Financial Assistance Award (FY19)**

State of Oregon Oregon Health Authority Public Health Division			Page 1 of 3	
1) Grantee		2) Issue Date	This Action	
Name: Clackamas County Public Health		July 08, 2019	AMENDMENT	
Street: 2051 Kaen Rd. Suite 637		3) Award Period From July 1, 2018 Through June 30, 2019		
City: Oregon City				
State: OR Zip Code: 97045				
4) OHA Public Health Funds Approved				
Program	Award Balance	Increase/ (Decrease)	New Award Bal	
PE01 State Support for Public Health	486,823		486,823	
PE03 Tuberculosis Case Management	17,749	-17,749	0	
PE07 HIV Prevention Services	130,555		130,555	
PE12 Public Health Emergency Preparedness and Response (PHEP)	162,253		162,253	
PE13 Tobacco Prevention and Education Program (TPEP)	227,587		227,587	
PE27-02 PDOP - Opico State Targeted Response (OSTR)	79,583		79,583	
PE40-01 WIC NSA: July - September	200,074		200,074	
PE40-02 WIC NSA: October - June	600,221		600,221	
PE40-03 BFPC: July - September	17,353		17,353	
PE40-04 BFPC: October - June	52,056		52,056	
PE40-05 Farmer's Market	3,769		3,769	
PE42-01 MCAH Title V CAH	36,671		36,671	
PE42-02 MCAH Title V Flexible Funds	55,564		55,564	
PE42-03 MCAH Perinatal General Funds & Title XIX	11,490		11,490	
PE42-04 MCAH Babies First! General Funds	36,706		36,706	
PE42-05 MCAH Oregon Mothers Care Title V	6,834		6,834	
PE42-06 MCAH General Funds & Title XIX	21,556		21,556	
PE43 Public Health Practice (PHP) - Immunization Services (Vendors)	91,961		91,961	

State of Oregon Oregon Health Authority Public Health Division			Page 2 of 3	
1) Grantee Name: Clackamas County Public Health		2) Issue Date July 05, 2018		This Action AMENDMENT FY 2019
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2018 Through June 30, 2019		
4) OHA Public Health Funds Approved				
Program		Award Balance	Increase/ (Decrease)	New Award Bal
PE44-01	SBHC Base	224,000		224,000
PE44-02	SBHC - Mental Health Expansion	336,700		336,700
PE46	RH Community Participation & Assurance of Access	5,038		5,038
PE50	Safe Drinking Water (SDW) Program (Vendors)	147,475		147,475
5) Foot Notes:		2,984,022	-17,749	2,966,273
PE03	1	Tuberculosis funding has been changed to a fee for service model.		
PE40-01	1	Award for July - September should be spent by 9/30/18		
PE40-02	1	Award for October - June should be spent by 6/30/19		
PE40-03	1	Award for July - September to be spent by 9/30/18		
PE40-04	1	Award October - June to be spent by 6/30/19		
PE40-05	1	Award is one-time funding to be spent by 11/30/18		
PE42-01	1	For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).		
PE42-01	2	Funds for the MCH Title V programs: Flexible funds, Child & Adolescent Health, and Oregon MothersCare for the period 7/1/18 – 9/30/18 must be spent by 9/30/18.		
PE42-02	1	For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).		
PE42-02	2	Funds for the MCH Title V programs: Flexible funds, Child & Adolescent Health, and Oregon MothersCare for the period 7/1/18 – 9/30/18 must be spent by 9/30/18.		
PE42-03	1	Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).		
PE42-04	1	For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).		
PE42-05	1	For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).		
PE42-05	2	Funds for the MCH Title V programs: Flexible funds, Child & Adolescent Health, and Oregon MothersCare for the period 7/1/18 – 9/30/18 must be spent by 9/30/18.		
PE42-06	1	For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).		
PE43	1	All Award must be spent by the end of June 30, 2019		

State of Oregon Oregon Health Authority Public Health Division			Page 3 of 3
1) Grantee Name: Clackamas County Public Health Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045	2) Issue Date July 05, 2018	This Action AMENDMENT FY 2019	
		3) Award Period From July 1, 2018 Through June 30, 2019	
4) OHA Public Health Funds Approved			
Program	Award Balance	Increase/ (Decrease)	New Award Bal
PE46 1 Funding period is two months - 7/1/18 - 8/31/18 - Funds must be expended by August 31, 2018			
6) Comments: PE40-02 Nutrition Ed of \$120,044, BF of \$21,942 to be spent by 6/30/19 PE50 \$13,273 must be spent from 7/1/18 to 9/30/18. \$39,818 must be spent from 10/1/18 to 6/30/19. (for portion of award with federal funding source CFDA 66.432) PE07 \$40,282 must be spent by 12/31/18 PE03 \$3,248 must be spent by 12/31/18 PE27-02 \$79,583 in FY19 is balance of OSTR Year 2 Funding available 7/1/18-4/30/19 only. PE40-01 Nutrition Ed of \$40,015 & BF of \$7,314 to be spent by 9/30/18			
7) Capital outlay Requested in this Action: Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
PROGRAM	ITEM DESCRIPTION	COST	PROG APPROV

Attachment B

Information required by CFR Subtitle B with guidance at 2 CFR Part 200

PE03: Tuberculosis Case Management

Funding Information Table

Federal Award Identification Number (FAIN):	5NU52PS004708	TBD	General Fund
Federal Award Date:	12/19/2017	TBD	
Performance Period:	06/01/18-12/31/18	01/01/19-06/30/19	
Federal Awarding Agency:	CDC	CDC	
CFDA Number:	93.116	93.116	
CFDA Name:	TB Control & Elimination	TB Control & Elimination	
Total Federal Award:	634585	TBD	
Project Description:	TB Case Mgmt	TB Case Mgmt	
Awarding Official:		TBD	
Indirect Cost Rate:	16.41%	TBD	
Research and Development (Y/N):	No	No	

PCA: 53012 TBD 53328
 INDEX: 50403 50403 53328

Agency/Contractor	DUNS	Amount	Amount	Amount	Total FY 2019
Clackamas	96992656	\$0	\$0	\$0	\$0

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #2 of a Revenue Intergovernmental Agreement with
Oregon Department of Human Services,
Office of Vocational and Rehabilitation Services

Purpose/Outcomes	Provides Job Placement and Job Retention services to clients who have a severe and persistent mental illness to find and retain employment.
Dollar Amount and Fiscal Impact	This is a revenue agreement with no maximum value.
Funding Source	No County General Funds are involved.
Duration	Effective September 30, 2018 and terminates on September 30, 2020.
Strategic Plan Alignment	1. Efficient and Effective Services. 2. Ensure safe, healthy and secure communities
Previous Board Action	Previous Board Action on March 15, 2018. Agenda item 031518 – A1
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	7427_02

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of a revenue Amendment #2 to the Intergovernmental Agreement (IGA) with Oregon Department of Human Services, Office of Vocational and Rehabilitation Services (OVRS).

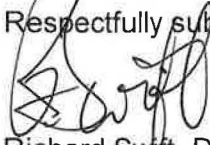
This agreement provides Job Placement and Job Retention services to clients who have a severe and persistent mental illness to find and retain employment. Reimbursement is on a performance based fee-for-service basis. The original agreement was previously reviewed by the Board of County Commissioners October 8, 2015 and Amendment #1 on March 15, 2018. This Amendment renews the agreement for an additional 2 years with a new termination date of September 30, 2020.

County Counsel reviewed this document on September 12, 2018. No County General Funds are involved. It is effective September 30, 2018 and terminates on September 30, 2020.

RECOMMENDATION:

Staff recommends the Board's approval of this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director
Health, Housing, and Human Services



Agreement Number 149599

**AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT**

#7427_02

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This is amendment number **02** to Agreement Number **149599** between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as "DHS" and

**Clackamas County
acting by and through its Department of Health, Housing and Human Services
Health Centers Division
2051 Kaen Rd., Suite 637
Oregon City, Oregon 97045
Attention: Ed Johnson
Telephone: (503) 742-5325
Facsimile: (503) 742-5352
E-mail address: ejohnson@co.clackamas.or.us**

hereinafter referred to as "County."

1. Upon signature by all applicable parties, this Amendment shall be effective on the later of (a) September 30, 2018 or (b) when required, the date this Amendment has been approved by the Department of Justice, regardless of the date the Amendment is actually signed by all other parties.
2. The Agreement is hereby amended as follows:
 - a. **Section 1. "Effective Date and Duration"**, to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.
 1. **Effective Date and Duration.**

This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by Department of Justice or on October 1, 2015, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on ~~September 30, 2018~~ **September 30, 2020**. Agreement termination or expiration shall not extinguish or prejudice

either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

- b. **Exhibit A, Part 1, "Statement of Work", Section 2., "Definitions", Subsections f., "Job Retention" and h., "Participant,"** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.

f. Job Retention means an array of individualized services provided by the County while working with the Participant and employer to discern issues, problems and solutions on the job to ensure Participants employment success. **It includes ongoing and routine engagement of employer and or Participant to identify issues affecting job performance and to establish a plan for remediation which will allow the Participant to make changes to maintain employment. This will be based on Participant's preference of disclosure.** Retention has been successfully achieved when the participant has reached 90 days of successful employment and job stability, as defined by VR, has been achieved, whichever comes later. Job retention is not job coaching. See definition for job coaching.

h. Participant means a DHS client or consumer, that is **has been determined** eligible for VR services, and who is in need of, and can benefit from, rehabilitation services to assist in achieving an employment outcome. **This does not include students that have only been determined potentially eligible for Pre-Employment Transition Services (Pre-ETS).**

- c. **Exhibit A, Part 1, "Statement of Work", Section 4., "Performance Work Statement", Subsection b., "Job Placement Referrals", Paragraph (1),"** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.

a. The VRC will utilize the standardized Job Placement Referral form and send the completed referral form via email, fax or USPS to the County. The referral will include the Participant's vocational goal, amount of work hours per week desired by the Participant, disability barriers; predetermined Job Placement track, all other required Services available under this Agreement and additional elements necessary for County to make an informed decision whether to accept or deny the Referral.

(a) Prior to the referral meeting described in subsection 3) the Participant is allowed, when available, a brief unpaid interview or informative material for County in order for the participant to make an informed choice regarding who they would like to be referred to. These may include short unpaid meet and greet sessions, County resumes or brochures, video resumes, and other materials which may assist the Participant's informed choice.

(b) The referral payment is a one-time fee per County, for each Participant as stated in Exhibit A, Part 2, "Payment and Financial Reporting", Section 2.

d. **Exhibit A, Part 1, "Statement of Work", Section 4., "Performance Work Statement", Subsection b., "Job Replacement Referrals", Paragraph (5), "Participant Portfolio (Portfolio)," to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.**

(5) Participant Portfolio (Portfolio)

The Portfolio will only be utilized at the request of the VRC through the Job Placement referral form at the time of referral for Job Placement services, or through an Authorization for Purchase (AFP) if requested for participants that do not need Job Placement services, but require assistance with resume building, interview skills and application completion. The Portfolio may not be necessary for all Participants or Job Placement Tracks. Completed Portfolio's must be submitted prior to or along with the first monthly Job Placement review report, or within 30 days of AFP acceptance for Participants not referred to Job Placement Services. The Portfolio will be individualized for each Participant and will include elements as requested by VRC in the referral form and during the Job Placement Strategy Meeting, or as listed in the AFP for participants not referred to Job Placement Services. Examples of elements that may be requested include a resume, master on-line application in print, video profile, profile page, mock interview skill building and other job preparation activities deemed necessary by the VRC to reach a successful outcome.

Portfolio Acceptance or Rejection

(a) Accepted: VRC determines that Portfolio includes all required elements and is of acceptable quality. County may submit invoice requesting payment upon acceptance.

(b) Rejected: The VRC will reject the Portfolio if it does not include all required elements and is not acceptable quality. VRC will give County an additional 15 days to revise the Portfolio to include all required elements and resubmit for VRC approval.

(c) Participant Portfolio will not be provided in situations where Participant is receiving or has received Job Search Assistance. Job Search Assistance shall not be provided when a Participant Portfolio was received.

e. **Exhibit A, Part 1, "Statement of Work", Section 4., "Performance Work Statement", Subsection e., "Job Placement," Paragraph (1) is hereby amended to add new Subsections (e) and (f) to address multiple Job Placements to meet Participant Job hour goals, to read as follows:**

(e) Job Placement in conjunction with Track 2 and Track 3 may require a Participant to use more than one Job Placement in order for them to meet

their required work hours as stated in their written Strategy Report described in Section 4 d. This requirement will allow for a special provision to be performed.

- (f) This special provision for Job Placement Track 2 and Track 3 service levels, as authorized by the Participant and VRC, allows for multiple Job Placements to be paid using incremental steps of the standard Job Placement payment levels found in Exhibit A Part 2 Payment and Financial Reporting Section 1) "Achieved Milestone Payments." Payment will be issued incrementally with 50% of the total payment paid for the first Job placement and 50% paid after the placement that reaches the total number of hours agreed upon in the client's Strategy Report. An additional 50% payment will be made, only as authorized by VRC, to replace a lost job to achieve the total number of agreed upon hours and reach job retention. Placement payment will be issued by VR, as authorized by VRC, after Participant has been on the job for 3 days and County has submitted required documentation.

f. **Exhibit A, Part 1, "Statement of Work", Section 4., "Performance Work Statement", Subsection f., "Job Retention"** is deleted in its entirety and restated with the following:

f. Job Retention

- (1) County shall submit a Retention Verification Form and invoice to the VRC if the following expectations have been met:
 - (a) VRC, Participant, County and employer agree that 90 days of successful employment and Job Stability has been achieved.
 - (b) Necessary long-term supports have been established for track 2 & 3.
 - (c) Job matches vocational plan goal and work hours requested on the Referral Form.
- (2) Retention Acceptance or Rejection
 - (a) Acceptance
 - i. County has submitted monthly communications to VRC regarding Participants performance, employer's expectations and any performance evaluations during the Job Retention period. The report will be submitted in the format approved by VRC.
 - ii. VRC accepts retention and signs Retention Verification Form. VRC pays invoice
 - (b) Rejection. All elements of successful retention have not been met and invoice is not paid.

- g. Exhibit A, Part 1, “Statement of Work”, Section 4., “Performance Work Statement” is hereby amended to add a new Subsection g. “Job Search Assistance” and re-letter “Additional Services as h. as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.

g. Job Search Assistance

Is a direct service authorized by the VRC and provided in place of Job Placement when the Participant will need limited job search assistance to initiate or help facilitate the Participant’s use of community resources in their independent job search.

- (1) Job search assistance is a short-term service provided to Participants who are not receiving Job Placement, nor anticipate receiving Job Placement.**

Job search assistance may include interview assistance (reducing anxiety), interview debrief, introduction to local Workforce and community partners and career development activities, training on and selection of appropriate interview and/or work clothing, selection of appropriate equipment needed for employment (ex: commercial grade tools), support in arranging possible accommodation needs or equipment for interviews, travel planning to attend a scheduled interview, online applications, and video resume.

- (2) Job search assistance is expected to last no more than 10 hours. Exceptions may be made in extraordinary circumstances based on VRC recommendation and Branch Manager Approval.**

- (3) County shall develop and deliver to the VRC a written plan utilizing the standard Job Search Assistance Plan within the first two weeks of providing job search assistance. The plan will be individualized for the Participant’s particular job search assistance needs and will include an analysis and breakdown of tasks necessary for job search assistance, how these services will be provided to match the Participant’s individual learning styles, tools and accommodations needed for Participant’s efficiency during job search.**

- (4) County will provide an in-depth monthly report utilizing the standard Monthly Job Search Assistance Report that demonstrates successes and challenges with all strategies identified in the Job Search Assistance Plan.**

- (5) Job search assistance rate will be negotiated between the County and the VRC and will be based on fair market value of the service(s).**

- (6) Portfolio will not be provided if “Job Search Assistance” is provided. Portfolios are intended for all other Job Placement Services not Job Search Assistance.**

~~g.~~ **h. Additional Services**

h. Exhibit A, Part 1. “Statement of Work”, Section 4., “Performance Work Statement”, Subsection h., “Additional Services”, Paragraph (2) is hereby amended by adding new **Subparagraphs (i), (j), and (k)**, to read as follows:

- (i) If the Participant completes less than 20 hours of the assessment, after VRC and Participant have agreed to the placement site, a 50% payment will be authorized. County shall submit the completed CBWA report form with invoice.
- (j) CBWA’s are tools designed to evaluate the Participant’s needs and abilities in a work site. It is expected that an evaluator will be on site to complete this evaluation and respective reports of their observations. This on site evaluator is included in the flat fees.
- (k) For Participants needing additional supports, that are unable to participate in and complete the basic tasks of the work site without accommodations, such as a coach to help them accomplish the task, a trained job coach can be hired and provided for the successful completion of this evaluation. VRC and County will determine the extent of support needs for Participant and number of hours appropriate for Participant’s support needs, not to duplicate or overlap with the expectation of the hours the evaluator is already present and completing this evaluation. Job Coaching will be justified according to the support needs of the Participant. Job Coaching will not be paid for in addition to the CBWA’s flat fee if it is used just to show Participant what to do then the Participant is observed and evaluated on this task from that point on, meaning the Participant learns task and is independent in task after brief instruction. This is a standard expectation in the flat fees of these evaluations and are not paid for in additional job coaching services.

i. Exhibit A, Part 1, “Statement of Work”, Section 4., “Performance Work Statement”, Subsection h., “Additional Services”, Paragraph (3), “Direct Job Placement”, Subparagraph d) is deleted in its entirety and restated with the following:

- (d) Direct Job Placement Strategy Report fee will be paid upon delivery and acceptance of Direct Job Placement Strategy Report. Placement fee will be paid upon delivery of invoice by the County. Retention fee will be paid upon delivery of the Direct Placement Retention form and invoice by the County. Payment expectations are as follows:
 - i. Strategy Report fee will be paid after 3 days of successful employment.”
 - ii. Direct Placement fee will be paid after 30 days of successful employment.
 - iii. Retention fee will be paid after 90 days of successful employment.

- j. **Exhibit A, Part 1, “Statement of Work”, Section 4., “Performance Work Statement”, Subsection h., “Additional Services”, Paragraph (4), “Job Coaching”** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.
- (4) Job Coaching: Direct services authorized by the VRC and provided ~~on the~~ **for the** job to teach the participant the essential skills necessary to complete required job tasks beyond what is normally provided by the employer.
- k. **Exhibit A, Part 1, “Statement of Work”, Section 4., “Performance Work Statement”, Subsection h), “Additional Services”, Paragraph (5) “On the Job Training (OJT) Set Up”** is hereby deleted in its entirety and reserved for future use.
- (5) **(Reserved) On The Job Training (OJT) Set Up:** ~~OJT is a time specific training in specific job skills by a hiring employer, which is completed as a wage reimbursement to the employer to compensate for additional training required for the participant to meet all skills requirements of the job.~~
- (a) ~~Set up of an OJT site by the County will be completed at the request of the VRC.~~
- (b) ~~OJT will be initiated upon employers’ agreement to hire a Participant.~~
- (c) ~~OJT is expected to last no longer than three (3) months.~~
- (d) ~~VRC and County will utilize the standard OJT agreement form.~~
- l. **Exhibit A, Part 1, “Statement of Work”, Section 4., “Performance Work Statement”, Subsection h., “Additional Services”, Paragraph (6), “Targeted Vocational Assessment (TVA)”** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- (6) Targeted Vocational Assessment (TVA) is completed in relation to a specific vocational goal and looks at skills and tasks necessary for success in the desired employment fields.
- (a) TVA will only be provided by County at the request of the VRC upon receipt of a TVA Referral form. TVAs may be provided to Participants that have completed Discovery through the ODDS program.
- (b) County shall meet with the VRC and Participant to discuss the required outcome of the TVA, determine what information will be obtained through the TVA and identify the Participants specific vocational goal to ensure an appropriate TVA site is chosen by the County.
- (c) Utilizing information obtained at the meeting, County shall develop a written plan describing how the TVA will be performed and monitored utilizing the standard TVA report form.

The plan will clearly describe the desired outcome and how that outcome will be achieved. County will deliver the plan to the VRC within 10 business days after the meeting.

- i. If VRC accepts the plan then County will proceed with the TVA.
 - ii. If plan does not adequately describe how outcomes will be achieved then VRC will give County the opportunity to revise the plan and resubmit to the VRC for approval.
- (d) TVA's will occur only at integrated employment sites individually developed to match the Participants' specific vocational goal as outlined in the agreed upon monitoring plan. TVA's will not be completed at a business owned or operated by the County.
- (e) TVA's are expected to ~~last a maximum of 8 hours~~ **be 6 to 12 hours. There will be a half payment for VRC approved Participant initiated cancellations.**
- (f) A maximum of three TVA's will be approved by the VRC per Participant case and each must assess a different question or vocational goal. Exceptions may be made in extraordinary circumstances based on VRC recommendation and Branch Manager approval.
- (g) Upon completion of the TVA County shall submit a comprehensive report completing the standard TVA report form.
- (h) VRC, Participant and County will conduct a post meeting to review the TVA results.
- (i) TVA's are tools designed to evaluate the Participant's needs and abilities in a work site. It is expected that an evaluator will be on site to complete this evaluation and respective reports of their observations. This on site evaluator is included in the flat fees.**
- (j) For Participants needing additional supports, that are unable to participate in and complete the basic tasks of the work site without accommodations, such as a coach to help them accomplish the task, a trained job coach can be hired and provided for the successful completion of this evaluation. VRC and County will determine the extent of support needs for Participant and number of hours appropriate for Participant's support needs, not to duplicate or overlap with the expectation of the hours the evaluator is already present and completing this evaluation. Coaching will be justified according to support needs of the Participant. Coaching will not be paid for in addition to the TVA's flat fee if it is used just to show Participant what to do then the Participant is observed and evaluated on this task from that point on, meaning the**

Participant learns task and is independent in task after brief instruction. This is a standard expectation in the flat fees of these evaluations and are not paid for in additional coaching services.

(k) If the Participant completes less than 6 hours of the assessment, after VRC and Participant have agreed to the placement site, a 50% payment will be authorized. County shall submit the completed TVA report form with invoice.

- m. **Exhibit A, Part 1, “Statement of Work”, Section 5., “Qualifications”, Subsection b., “Job Placement Services”, Paragraph (1), “For Job Placement Track 1”, subparagraph (a)i.** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- i. DHS Vocational Rehabilitation (VR) ~~Employment Outcomes Professionals II Training (EOPH) or DHS approved EOPH Equivalent Training~~ **Job Developer Orientation Training (JDOT) or VR approved Job Developer Training Equivalent**; Mental Health Individual Placement and Support (IPS) approval; Association of People Supporting Employment first (APSE) training, Association of Community Rehabilitation Educators (ACRE) training, or Certified Employment Support Professional (CESP) certification; or a Department approved competency-based employment training; or
- n. **Exhibit A, Part 1, “Statement of Work”, Section 5., “Qualifications”, Subsection b., “Job Placement Services”, Paragraph (1), “For Job Placement Track 1”, Subparagraph (b)i.** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- i. ~~DHS VR EOPH or DHS approved EOPH Equivalent Training~~ **Job Developer Orientation Training (JDOT) or VR approved Job Developer Training Equivalent** within 12 months of Agreement execution or start of employment under the Agreement, and;
- o. **Exhibit A, Part 1, “Statement of Work”, Section 5., “Qualifications”, Subsection b., “Job Placement Services”, Paragraph (2), “For Job Placement Tracks 2 & 3”, Subparagraph (c)** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- (c) In accordance with ORS 409.050 DHS Vocational Rehabilitation has adopted requirements under OAR 411.345.0030(4)(e) to meet requirements set forth in Executive Order 15-01 and ensure all populations served by VR are provided services by equally skilled and highly qualified providers. Requirements are as follows:
- p. **Exhibit A, Part 1, “Statement of Work”, Section 5, “Qualifications”, Subsection c., “Job Coaching Services”, Section (1)(b)** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:

- (b) DHS VR EOPH or DHS approved EOPH Equivalent Training Job Developer Orientation Training (JDOT) or VR approved Job Developer Training Equivalent; or;
- q. **Exhibit A, Part 1, “Statement of Work”, Section 5., “Qualifications”, Subsection c., “Job Coaching Services”, Section (6)** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- (6) In accordance with ORS 409.050 DHS Vocational Rehabilitation has adopted requirements under OAR 411.345.0030(3)(b)(B) to meet requirements set forth in Executive Order 15-01 and ensure all populations served by VR are provided services by equally skilled and highly qualified providers. Requirements are as follows:
- r. **Exhibit A, Part 1, “Statement of Work”, Section 6., “Additional Requirements”** to add a new **subsection g.** to read as follows:
- g. County shall use secured emails when sending confidential information to ensure the information is protected, following the DHS approved email encryption process approved by the DHS OIS department. This is a mandatory requirement to safeguard all protected class information for any DHS Participant.
- s. **Exhibit A, Part 2, “Payment and Financial Reporting”, Section 1., “Payment Provisions.”, Subsection a.** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- a. Payments will only be generated through the use of an Authorization For Purchase (AFP). AFPs will be generated by the VRC at the beginning of each step in the Job Placement process that includes a payment and at the initiation of each additional service. The County shall submit a copy of the AFP along with the invoice when requesting payment. **County shall submit invoice no later than 30 days after the rendering of the currently authorized services.**
- t. **Exhibit A, Part 2, “Payment and Financial Reporting”, Section 1., “Payment Provisions.”, Subsection c., Paragraph 2), “Additional Service Payments** to read as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:
- 2) Additional Service Payments:
- Costs associated with providing Services (doing business) under this Agreement are the responsibility of the County. Achieved Milestones and payments made for additional services by DHS are the only payments that will be made for Job Placement Services.

Job Placement Services – Additional Services	Payment Amount
Direct Placement <u>Fee</u>	Placement Fee = \$2,000.00 <u>\$1,500.00</u> Retention Fee \$1,500.00
<u>Direct Placement Strategy Report Fee</u>	<u>Report Flat Fee=\$500.00</u>
Job Coaching	\$40.00 per hour
On the Job Training Set Up <u>Reserved</u>	Flat Fee = \$750.00 <u>Reserved</u>
Community Based Work Assessment	Flat Fee = \$1,100.00
Targeted Vocational Assessment	Flat Fee = \$300.00 <u>\$450.00</u>
Trial Work Experience	Flat Fee = \$1,100.00
Career Exploration	To Be Negotiated
<u>Job Search Assistance</u>	<u>To Be Negotiated</u>

3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect. County certifies that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.
4. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement amendment, the County hereby certifies under penalty of perjury that:
- a. The County is in compliance with all insurance requirements in Exhibit C of the original Agreement and notwithstanding any provision to the contrary, County shall deliver to the DHS Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance for any extension of the insurance coverage, within 30 days of execution of this Agreement Amendment. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
 - b. The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes

(or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;

- c. The information shown in County Data and Certification, of original Agreement or as amended is County's true, accurate and correct information;
- d. To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- e. County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- f. County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Nonprocurement Programs" found at: <https://www.sam.gov/portal/public/SAM/>;
- g. County is not subject to backup withholding because:
 - (1) County is exempt from backup withholding;
 - (2) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (3) The IRS has notified County that County is no longer subject to backup withholding.
- h. County Federal Employer Identification Number (FEIN) provided to DHS is true and accurate. If this information changes, County is required to provide DHS with the new FEIN within 10 days.

5. Signatures.

COUNTY: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

Clackamas County acting by and through its Department of Health, Housing and Human Services Health Centers Division

By:

_____	Richard Swift
Authorized Signature	Printed Name
Director - Health, Housing & Human Services	_____
Title	Date

State of Oregon acting by and through its Department of Human Services

By:

_____	_____
Authorized Signature	Printed Name
_____	_____
Title	Date

Approved for Legal Sufficiency:

Jeff Wahl Senior Assistant Attorney General, approval via email on 9/7/2018

_____	_____
Department of Justice	Date



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 27, 2018

Board of Commissioners
Clackamas County

Members of the Board:

A Board Order Adopting the Vacation of a Local Access Road

Purpose/Outcomes	Vacates a Non-maintained Local Access Road
Dollar Amount and Fiscal Impact	Application and processing fee received.
Funding Source	N/A
Duration	Upon execution; permanent vacation.
Previous Board Contact	N/A
Strategic Plan Alignment	Grow a Vibrant Economy
Contact Person	Doug Cutshall, Engineering Technician (503) 742-4669

This undeveloped non-maintained Local Access Road was dedicated to the public as an exception in several deeds, the first being recorded August 1884 in Book Y, Page 71, and then on September 26, 1892 in Book 48, page 445 in the Clackamas County Deed Records. This right of way was briefly opened west of Springwater Road then later vacated to make a safer intersection. The petitioner is planning to construct a solar farm on their property, they and the adjoining property owners have no need for the unconstructed right of way easement.

The unconstructed non-maintained Local Access Road to be vacated is a 49.50 foot wide, 963 foot long, right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this undeveloped Local Access Road will not deprive public access to adjoining properties and will not affect area traffic flow. The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting the public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation Maintenance, Engineering, Planning, Traffic Divisions, and all local utility companies, have been contacted and do not have any objections to this vacation. County Counsel has reviewed and approved this vacation.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of this undeveloped non-maintained Local Access Road.

Sincerely,

Doug Cutshall, Engineering Technician
Transportation and Development

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of the Vacation of a
Non-maintained Local Access
Road, situated in Section 34,
T.2 S., R.3 E., W.M.
Clackamas County, Oregon



Board Order No. _____

Page 1 of 1

This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, Director, have been submitted in the matter of the vacation of a Non-maintained Local Access Road, described as follows:

All of that Non-maintained Local Access Road, situated in the southwest ¼ of Section 34, T.2 S., R.3 E., W.M., Clackamas County, Oregon, as described in Book Y, Page 71, and Book 48, Page 445, lying east of the northeasterly line of Springwater Road, Market Road 28, County Road No. 1150, depicted on attached Exhibit "A", and by this reference made a part hereof.

Whereas the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

Whereas Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, have been contacted and do not have any objections to this vacation; now therefore,

IT IS HEREBY ORDERED that the attached described portion of a Non-maintained Local Access Road, containing, 47,452 square feet, more or less, be vacated; and,

IT IS FURTHER ORDERED, that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

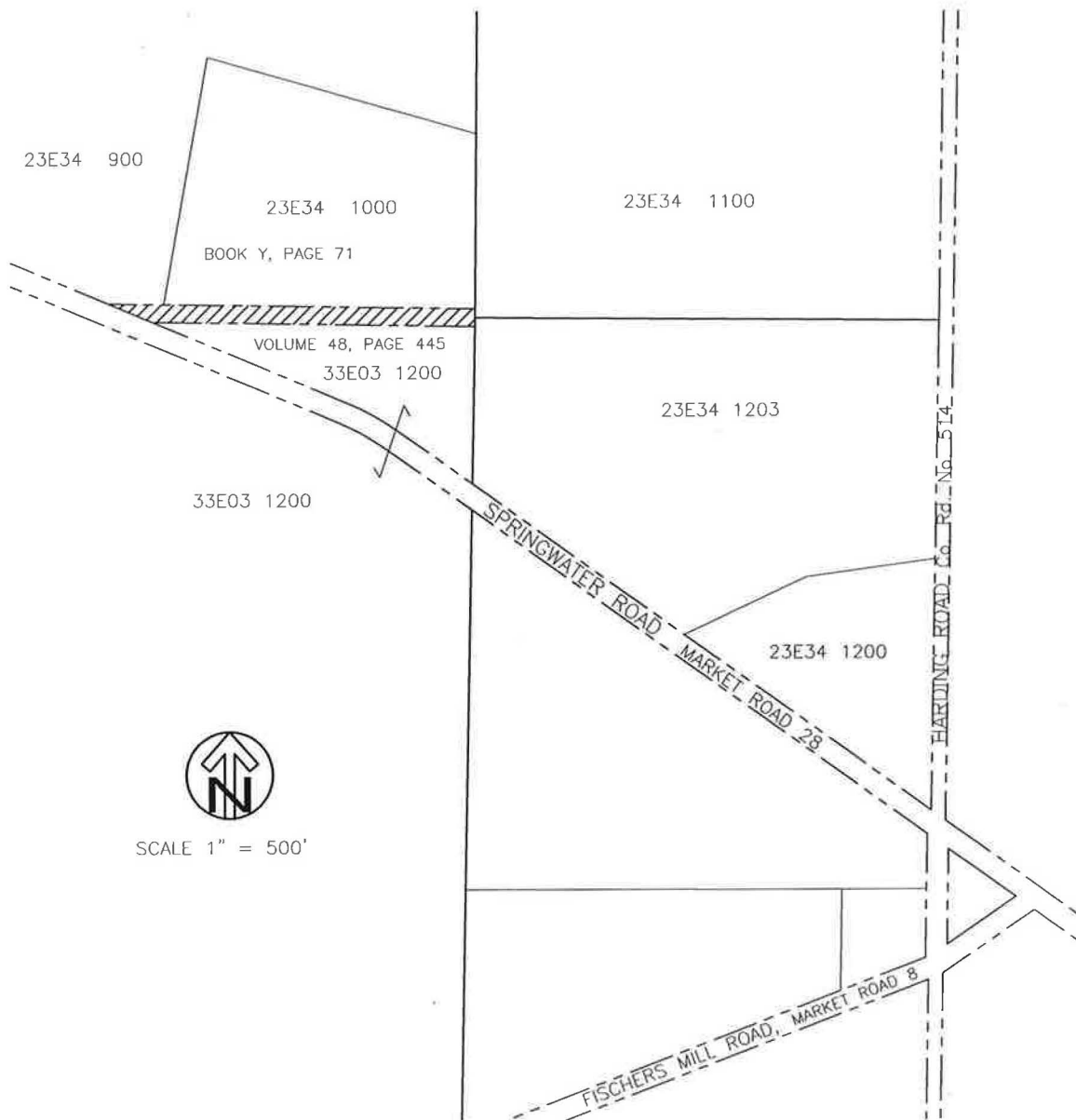
ADOPTED this _____ day of _____, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

SITUATED IN THE ROBERT ARTHUR DLC AND
 THE SW $\frac{1}{4}$ OF SECTION 34, T.2 S., R.3 E., W.M.
 CLACKAMAS COUNTY, OREGON



SCALE 1" = 500'

LEGEND



NON MAINTAINED LOCAL ACCESS
 ROAD TO BE VACATED

DEPARTMENT OF TRANSPORTATION
 AND DEVELOPMENT
 150 BEAVERCREEK ROAD
 OREGON CITY, OR 97045



BY: D. CUTSHALL

DATE: 08/07/2018

EXHIBIT "A"

SHEET

1 OF 1

MEMORANDUM

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: August 30, 2018

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF A LOCAL ACCESS ROAD**

LOCATION: A Non-Maintained Local Access Road, situated in the SW1/4 of Section 34, T.2 S., R.3 E., W.M. and the Robert Arthur DLC No. 39

FACTS AND FINDINGS: This undeveloped Local Access Road was dedicated to the public as an exception in several deeds, the first being recorded August 1884 in Book Y, Page 71, and then on September 26, 1892 in Book 48, page 445 in the Clackamas County Deed Records. A short section of this right of way was briefly opened west of Springwater Road then later vacated to make a safer intersection. The petitioner is planning to construct a solar farm on their property, they and the adjoining property owners have no need for the unconstructed right of way easement. Vacating this 49.50 foot wide, 963 foot long portion of unimproved right of way will not deprive public access to adjoining properties and will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting the public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies have been contacted and do not have any objections to this vacation.

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate the area petitioned.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there is acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Amendment No. 1 to the
Special Public Works Financing Contract with Oregon Infrastructure Authority for
Construction of Improvements to Last Road**

Purpose/Outcome	To amend the contract with the State of Oregon to increase the grant funds available for construction of frontage improvements on Last Road.
Dollar Amount and Fiscal Impact	Total Construction Cost Estimate: \$442,649 The State will be increasing the grant amount by \$65,000 to cover construction bids that exceeded previous estimates.
Funding Source	State grant funds; General Sheet Metal matching contribution; County staff time and limited payment for engineering costs.
Duration	The project is to be complete by November 1, 2018.
Previous Board Action/Review	Approval of the Special Public Works Financing Contract – 4/2/15
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government • Build a strong infrastructure
Contact Person	Joel Howie, Civil Engineering Supervisor, (503) 742-4658

In 2015, Clackamas County Business and Community Services (BCS) worked with General Sheet Metal (GSM) to expand its business in the Clackamas Industrial Area. As part of their expansion and in order to accommodate the increased demand on the transportation system adjacent to their business, the Department of Transportation and Development (DTD) required the County enter into an agreement with the State of Oregon to assist GSM with completing required infrastructure improvements on Last Road, Evelyn Street and Jennifer Street. In an effort to alleviate GSM of the cost of the infrastructure improvements, BCS applied for and was awarded a Special Public Works Fund Grant through the Oregon Infrastructure Finance Authority, which assists agencies to prepare industrial land with the intention of attracting, retaining and expanding local businesses. The grant required DTD to construct the improvements on behalf of GSM.

Increases in the cost of construction since the time of award led to bids that exceeded previous estimates. To help cover the additional cost of construction, the State has agreed to increase the grant amount by \$65,000, for a total contribution of \$315,000. The State has set aside \$15,000 of its contribution as a contingency in the event the project exceeds its budget. GSM is obligated to contribute the remainder of the costs to the project.

This amendment has been reviewed and approved by County Counsel.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners approve this Amendment No. 1 to the Special Public Works Financing Contract.

Sincerely,

Mike Bezner
Assistant Director, Department of Transportation and Development

Attachments: Special Public Works Financing Contract

Amendment Number 1

Project Name: Clackamas Industrial Area Last Road Improvements (General Sheet Metal)

This amendment is made and entered into by and between the State of Oregon, acting by and through the Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“IFA”), and the Clackamas County (“Recipient”), and amends the Financing Contract between Recipient and IFA, Project Number L15002, dated 9 April 2015, (“Contract”) for the above-named Project. Capitalized terms not defined in this amendment have the meanings assigned to them by the Contract.

Recital: The purpose of this amendment is to increase the grant amount due to higher than anticipated construction costs and correspondingly increase the number of full-time equivalent jobs to maintain.

The parties agree as follows:

1. Amend the following Key Terms in Section 1 of the Contract as follows (deletion in ~~strikethrough~~; addition in double underline):

Estimated Project Cost: ~~\$418,800~~ \$519,301.

Grant Amount: ~~\$250,000~~ \$315,000.

2. Amend the first two paragraphs of section II Project Special Condition in Exhibit D of the Contract as follows (deletion in ~~strikethrough~~; addition in double underline):

Job Creation and Maintenance or Grant Repayment. In order to retain the Grant, Recipient is bound by the condition that General Sheet Metal Works, Inc. at its facility located in Clackamas, Oregon (“Facility”), retains at least ~~90~~ 114 full-time equivalent jobs (“FTEs”) and maintains those same FTEs for four consecutive calendar quarters beginning the calendar quarter immediately following the Project Completion Date (the “Maintenance Period”).

If at least ~~90~~ 114 FTEs are not maintained for the Maintenance Period, Recipient shall repay the portion of the Grant equal to ~~\$2,778~~ \$2,763 multiplied by the difference obtained by subtracting from ~~90~~ 114 the total number of FTEs that were maintained for the Maintenance Period, less any portion of the Grant not disbursed. Any amount due under this section will be payable upon demand by IFA.

3. Delete Exhibit E (Project Budget) and replace it with the following new Exhibit E:

EXHIBIT E - PROJECT BUDGET

	OBDD Funds	Other / Matching Funds
Activity	Approved Budget	Approved Budget
Engineering	\$61,652	\$0
Construction	238,348	194,301
Construction Contingency	15,000	10,000
Total	\$315,000	\$204,301

IFA will have no obligation under this amendment, unless within 60 days after receipt, the Recipient delivers to IFA the following items, each in form and substance satisfactory to IFA and its Counsel:

- (i) this amendment duly executed by an authorized officer of the Recipient; and
- (ii) such other certificates, documents, opinions and information as IFA may reasonably require.

Except as specifically provided above, this amendment does not modify the Contract, and Contract shall remain in full force and effect during the term thereof. This amendment is effective on the date it is fully executed and approved as required by applicable law.



STATE OF OREGON
acting by and through the
Oregon Infrastructure Finance Authority



CLACKAMAS COUNTY

By: _____
Chris Cummings, Assistant Director
Economic Development

By: _____
The Honorable Jim Bernard, Chair

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Not required by OAR 137-045-0050



DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Lease Agreement by and between Glenn and Glena Butler and
Clackamas County for the District Attorney's Office

Purpose/Outcomes	This is a three-year lease for the Butler Building occupied by District Attorney's Office (DA) staff.
Fiscal Impact	Three-year total cost of \$195,535.
Funding Source	Budgeted as part of DA's operations. No new funds needed.
Duration	Effective July 1, 2018 and terminating on June 30, 2021
Previous Action	The first lease for this building was approved by the Board on April 11, 1996 through board order #96-287.
Strategic Plan Alignment	<ul style="list-style-type: none">• Ensure safe, healthy and secure communities• Build public trust through good government
Contact Person	Eli Seely, Facilities Management, 503-557-6425

BACKGROUND

Clackamas County has leased the Butler Building, located at 108 8th Street in Oregon, since 1996. At present, it houses District Attorney's staff operations.

Until last year, this lease was a sublease to the County by an intermediary who held a master lease with the property owners. Last year, the master lease was terminated and the property owners, Glenn and Glena Butler, took full possession of the property. At the time, they agreed to honor the terms of our sublease until it expired. The new lease was negotiated by Facilities Management in consultation with DA staff.

RECOMMENDATION

Staff recommends the Board approve the Lease agreement between Clackamas County and Glenn and Glena Butler and that the Chair of the Board be authorized to execute the Lease.

Respectfully submitted,

Christa Bosserman Wolfe, CPA
Interim Finance Director

LEASE

This Lease (the "Lease") effective as of July 1, 2018, is made by and between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, hereinafter called "Lessee" and GLENN KENT BUTLER, Trustee of the Glenn Kent Butler Revocable Living Trust dated March 2, 2000, as to an undivided fifty percent (50%) interest, and GLENA KAY BUTLER, Trustee of the Butler Living Trust dated January 29, 1998, as to an undivided fifty percent (50%) interest, as tenants in common of the real property located at 108 8th Street, Oregon City, Oregon, said trusts being hereinafter called "Lessor".

Recitals

Whereas, Lessor is the owner of the building and other improvements commonly known as 108 8th Street, Oregon City, Oregon 97045 (the "Property");

Whereas, Lessor had a long term master lease with Howard Cohn d.b.a. MARBAR INVESTMENTS until said lease's expiration on June 30, 2017;

Whereas, on or about June 20, 2013, Clackamas County and Howard Cohn d.b.a. MARBAR INVESTMENTS executed a sublease for a portion of the Property (the "Cohn Lease");

Whereas Lessor agreed to honor the terms of the Cohn Lease until its expiration on June 30, 2018; and

Whereas Lessor and Lessee now wish to execute a new lease agreement;

Now, therefore, in consideration of the foregoing, and of the promises and mutual covenants, agreements, and conditions as above and hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties have agreed as follows:

1. PREMISES

The leased premises (the "Premises") consists of the entire first floor of the building on the Property, totaling approximately 3,000 square feet. In addition to the Premises, Lessee shall have the use of the parking lot with eight (8) spaces located to the northwest of the building between it and McLoughlin Boulevard, and five (5) spaces (13, 18, 19, 29, 30) in the parking lot located to the southwest of the building between the building and the property line in the center of the alley, located on Assessor's Map T2S, R2E, Section 31AB, Tax Lot 04800.

2. LEASE TERM

The Lessor does hereby let and lease the Premises to the Lessee to have and to hold the same for a term of three (3) years, beginning July 1, 2018 and ending at midnight on June 30, 2021.

3. RIGHT OF FIRST REFUSAL

If additional space becomes available in the building, Lessor shall not enter into any lease with any third party without first offering Lessee the opportunity to lease the additional space. Immediately following the date Lessor becomes aware such additional space will become available, whether by expiration or termination of existing lease for such space, Lessor shall offer the right to lease additional space to Lessee in writing. If Lessor does not receive Lessee's written election to lease additional space within ten

(10) business days, the rights of Lessee to lease additional space shall be null and void and Lessor shall be free to lease additional space to another tenant.

4. BASE RENT

Lessee shall pay to Lessor, at Lessor's address set forth herein, the following monthly rents for the duration of the Lease:

Building:

Months 1-2 (July 1– August 31, 2018): \$6,125.00 per month, reflecting a rate of \$18.00 per square foot per year;

Months 3-12 (September 1, 2018 – June 30, 2019): \$3,337.50 per month, reflecting a rate of \$13.35 per square foot per year;

Months 13-24 (July 1, 2019 – June 30, 2020): \$3,642.50 per month, reflecting a rate of \$14.57 per square foot per year;

Months 25-36 (July 1, 2020 – June 30, 2021): \$3,975.00 per month, reflecting a rate of \$15.90 per square foot per year.

Parking:

Months 1-36: (July 1, 2018 – June 30, 2021): \$1,625.00 per month, reflecting a rate of \$125.00 per space per month.

Rent for the period of July 1, 2018 through September 30, 2018, totaling the sum of seventeen-thousand two-hundred twelve dollars and fifty cents (\$17,212.50), shall be due upon execution of this Lease. All other rent is due and payable on or before the first day of the month. Rent not paid when due shall, after ten (10) days written notice, bear simple interest at the rate of one-and-one-half percent (1.5%) per month until paid. All rents shall be paid without set off, abatement, or deduction.

5. POSSESSION

Lessee shall be entitled to full use and possession of the Premises for the entire Lease term.

6. USE AND ENJOYMENT

Lessor covenants that Lessee shall be entitled to possession of the Premises for government offices and related purposes. Lessee covenants not to use the Premises for any other purpose without Lessor's prior written consent, or for any unlawful purpose. Lessee shall not allow the creation of any nuisance upon the Premises nor create any nuisance upon the same.

7. OPERATING COSTS

Lessee shall be responsible for charges for all utility services to the Premises, including telephone, electrical service, water/sewer, natural gas service, and landscape maintenance relating to this property.

8. PROPERTY TAXES

Lessee is applying for a property tax exemption on the property described above under the provisions of ORS 307.112. If the property tax exemption is granted, Lessee and Lessor agree that any tax savings resulting from the exemption shall inure solely benefit of Lessee. The rent payable by Lessee has been

established to reflect the savings resulting from the exemption granted in ORS 307.112. If the property tax exemption is not granted, or to the extent it is not totally granted if a partial exemption is granted, the Lessee shall pay the Lessor for the property taxes reasonably allocable to the Premises.

9. ASBESTOS, CHEMICALS, AND OTHER MATERIALS AND CONDITIONS RELATING TO SAFE WORK ENVIRONMENT

A. Lessor represents and warrants that the Premises are safe, healthful, and in compliance with all state and federal Occupational Safety and Health Administration (OSHA) rules and regulations, and all other state structural, building, fire, and specialty code requirements.

B. If conditions pre-exist, or arise, which are determined to be violations of any state or federal OSHA rule or regulation or any specialty code requirement, Lessor will be allowed a reasonable period in which to modify and correct the violation to achieve compliance. If Lessee deems that there is any imminent danger to employees or to the public, Lessor must correct the violations immediately. Lessor shall make every effort to achieve full compliance within thirty (30) days.

In the event Lessor does not correct any condition as required in items A and B above, Lessee has the right to terminate this Lease immediately, and shall have no further responsibility to Lessor under this Lease agreement.

10. INSPECTION

Lessor shall have the right personally and through Lessor's agents and workmen to enter into and upon the Premises at reasonable times to inspect the Premises and examine the condition thereof upon forty-eight (48) hours written notice, except in the event of an emergency, in which event no notice shall be necessary.

11. ALTERATIONS

Lessee may perform leasehold improvements and make subsequent non-structural modifications and alterations to the Premises, provided that Lessee will obtain Lessor's prior written approval of any proposed modifications or alterations of the improvements on the Premises. Such approvals will not be unreasonably withheld and will be given or denied within ten (10) business days after receipt of a written request for approval and such plans or other information as Lessor may reasonably require. Whether or not Lessor's consent is required under this Lease, Lessee will keep Lessor informed as to modifications and alterations of the Premises performed or to be performed by Lessee. All alterations shall be made in a good and workmanlike manner, and in compliance with applicable laws and building codes.

All alterations undertaken by Lessee shall be at Lessee's sole expense. Any alterations or improvements by Lessee that cannot reasonably be removed by Lessee without damaging the Premises shall become the property of Lessor upon termination of this Lease.

12. ELECTRICAL AND BUILDING OVERLOADS

Lessee shall not overload the floors or electrical circuits or alter the plumbing or wiring of the Premises or building without the written consent of Lessor, which Lessor shall not unreasonably withhold.

13. MAINTENANCE

Lessor shall be responsible for necessary maintenance and repair of the building foundation, roof, sidewalks, exterior walls, structural members, and for necessary water, sewage, and electrical repairs so long as not made necessary by Lessee's negligence, misuse, or failure to comply with any provisions of this Lease. Lessor shall be responsible for major repairs and/or replacement of heating and air conditioning components.

Any repairs or maintenance performed on or around the leased Premises by the Lessor shall be done in such a way as to interfere as little as reasonably possible with the use of the Premises by the Lessee. Lessee shall have no right to an abatement of rent nor any claim against Lessor for any inconvenience or disturbance resulting from Lessor's activities performed in conformance with the requirements of this provision.

Lessee shall be responsible for routine maintenance of heating and air conditioning equipment, including filter changes.

Lessee shall be responsible for keeping the sidewalks around the Premises free and clear of ice and snow.

Lessee shall be responsible for non-structural interior maintenance, including janitorial services. Lessee shall maintain Premises in a neat condition, free of trash and debris, in good order and repair.

Lessee shall promptly notify Lessor of any necessary repairs and shall, if necessary to protect the leased Premises from imminent damage prior to such notice, arrange for necessary emergency repairs. Payment for emergency repairs shall be the responsibility of Lessor.

Lessee shall be responsible for all damages to the Premises resulting from burglary or attempted burglary and shall repair and maintain all windows and doors.

14. REPAIR BY LESSOR

Lessor shall have no liability for failure to perform required maintenance and repair unless written notice of the needed maintenance or repair is given by Lessee and Lessor fails to commence efforts to remedy the problem in a reasonable time and manner. Repair of damage caused by negligent or intentional acts or breach of this Lease by Lessee, its employees, invitees, or licensees shall be at Lessee's expense.

15. LIEN CLAIMS AND LIABILITY

Lessee shall not allow any liens to attach to the building or Lessee's interest in the Premises as a result of any alterations or modifications done at Lessee's request, repairs or maintenance performed for which Lessor is not responsible, or obligations or judgments of Lessee unrelated to the Premises. Any labor or materials provided or construction done by Lessee at Lessor's request shall be deemed to have been provided by Lessor who shall be solely responsible for any liens or judgments arising from such provision or construction.

16. PLACE OF PAYMENT AND NOTICE

Any notice to which Lessee shall be entitled under this Lease shall be delivered or sent to Clackamas County Facilities Management, 1710 S Red Soils Court #200, Oregon City, OR 97045. Place of payment and notice for Lessor shall be mailed to Glenn Butler, 11835 SW Ebberts Court, Beaverton, OR 97008. Place for notices may be changed by written notice from the party changing address.

17. TOTAL OR PARTIAL DESTRUCTION

Lessor agrees to insure the building on the Premises against risks as covered by a standard all risk insurance policy, including water damage and sprinkler leakage, with extended coverage. So long as this provision does not invalidate or limit the extent of Lessor's coverage under such insurance policies, Lessor does hereby waive the right of subrogation against Lessee and Lessee's agents or employees under such insurance policy or policies. If the leased portion of the building on the Premises which is the subject of this Lease so insured shall be damaged by some cause covered by such insurance to the extent of less than thirty percent (30%) thereof, Lessor shall promptly remove all debris therefrom and repair and rebuild the same, restoring the Premises in substantially the same condition in which it was previous to the destruction. If the structure shall be damaged more than thirty percent (30%), Lessor shall not be required to build but may do so at Lessor's option. Percentage of damage shall be determined by the fire insurance underwriter. If Lessor shall elect to rebuild and repair the Premises in the last mentioned instance, Lessor shall give written notice of Lessor's intention to do so to the Lessee within thirty (30) days of the date of the damage. If Lessor fails to give such notice within thirty (30) days, this Lease shall terminate. If the Premises shall be damaged by some cause not covered by insurance and Lessor does not elect to rebuild or repair the Premises within sixty (60) days from date of damage, Lessee may terminate this Lease at Lessee's option. During any period of time during which the Premises shall be unusable, rental shall abate entirely and if the operation of the business on the Premises shall be impaired in part, rental shall abate during the terms of repairs or rebuilding proportionate to loss of use of the Premises and said impairment of business. If the insurance premium rates shall increase in any way by reason of Lessee's activities on the Premises, Lessee shall reimburse Lessor promptly for the cost of any premium in excess of the amount Lessor would have been required to pay for insurance had it not been for Lessee's activities or use and shall be added to the rent as charge against Lessee.

18. HAZARDOUS SUBSTANCES

Lessee shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed or, or otherwise released on or under the Premises. Lessee may use or otherwise handle on the Premises only those Hazardous Substances typically used in the prudent and safe operation of the office. Lessee may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Lessee's reasonably anticipated needs. Lessee shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Lessee shall remove all Hazardous Substances it stored on the Premises upon expiration or termination of this Lease. The term *Environmental Law* shall mean any federal, state, or local statute, regulation, or ordinance, or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term *Hazardous Substance* shall mean any hazardous, toxic,

infectious, or radioactive substance, waste, or material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

19. ASSIGNMENT AND SUBLETTING

Lessee shall not have the right to assign this Lease without the prior written consent of Lessor.

Unless otherwise agreed by the parties, in writing, no assignment shall relieve Lessee of its obligation to pay rent or perform other obligations required by this Lease, and no consent to one assignment or subletting shall be a consent to any further assignment or subletting. Lessor shall not unreasonably withhold its consent to any assignment, or to subletting provided that subrental rate or effective rental paid by the assignee is not less than the current scheduled rental rate of the building for comparable space and the proposed lessee is compatible with Lessor's other lessees and Lessor's normal standards for the building. If Lessee proposes a subletting or assignment to which Lessor is required to consent under this paragraph, the parties may, upon mutual written consent, agree to terminate this Lease and permit Lessor to contract directly with the proposed sublessee or assignee, or any third party.

20. EMINENT DOMAIN

If the entire Premises or entire access shall be taken under power of eminent domain, this Lease shall terminate, and Lessee shall immediately vacate said Premises within ninety (90) days after receipt of notice of said termination, or earlier if directed by a court having jurisdiction. Lessee shall not participate in any award of damages or purchase price paid by the acquiring authority to Lessor for the building and Premises and Lessee shall not be liable for any subsequent rent. If only a part of the Premises or access shall be taken under eminent domain so that Lessee may continue to operate Lessee's business on substantially the scale on which such business was conducted prior to condemnation, rental shall be abated for the remaining portion of the term of this Lease or extension thereof, proportionate to the loss of use of the Premises by Lessee. In no event shall Lessee participate in any condemnation award or settlement.

21. WAIVER

Any waiver of any breach of covenants herein contained to be kept and performed by Lessee or Lessor shall not be deemed or considered to be a continuing waiver, and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising any other rights as to any succeeding breach, either of the same condition or covenant or otherwise.

22. TERMINATION AND BREACH

If Lessee fails to pay any rental payment by the fifteenth (15th) day of the month in which it is due, Lessor may terminate this Lease by providing sixty (60) days written notice, with an opportunity to cure, to Lessee. Within sixty (60) days of receipt of said notice, Lessee shall either cure the default or vacate the Premises.

If Lessee defaults in performing its obligations under this Lease, other than payment of rent, Lessor may make any payment or perform any obligation which Lessee has failed to perform after not less than ten (10) days written notice to Lessee of Lessor's intention to pursue this remedy (except in cases of emergency, where no such prior notice shall be required), in which case Lessor shall be entitled to recover from Lessee upon demand all amounts so expended.

If Lessee breaches any covenants or conditions of this Lease, other than payment of rent, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessor claiming a default by Lessee and Lessor's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessee must commence correction within such period and thereafter diligently pursue the correction to completion), Lessor may terminate this Lease by sixty (60) days written notice thereof to Lessee, without waiver of any rights Lessor may have to initiate legal proceedings to recover damages or other relief. Within sixty (60) days of sending such notice, Lessee shall vacate the Premises.

If Lessor breaches any covenants or conditions of this Lease, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessee claiming a default by Lessor and Lessee's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessor must commence correction within such period and thereafter diligently pursue the correction to completion), Lessee may terminate this Lease by sixty (60) days written notice thereof to Lessor, without waiver of any rights Lessee may have to initiate legal proceedings to recover damages or other relief. Within sixty (60) days of sending such notice, Lessee shall vacate the Premises.

The rights and remedies specified in this section shall be non-exclusive. Either party's right to terminate this Lease for default as provided herein shall not be that party's sole remedy, and such party may exercise any other right or remedy provided in this Lease or otherwise available under applicable law.

23. SURRENDER

On expiration or early termination of this Lease, Lessee shall deliver all keys to Lessor and surrender the Premises clean and in the same condition as at the commencement of the term subject only to reasonable wear and tear from ordinary use. Lessee shall remove all of its furnishings and trade fixtures that remain its property and restore all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and Lessor may dispose of it in any manner without liability.

24. CONDITION OF PREMISES

Lessee accepts the Premises as of the commencement date in "AS IS" condition. Lessee acknowledges that it has occupied the Premises for a number of years and is familiar with the condition thereof.

25. INDEMNITY

Subject to the Oregon Tort Claim Act and the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, Lessee shall indemnify, defend, and hold harmless Lessor and its managing agents, and employees from any claim, liability, damage, or loss occurring on the Premises, or any cost or expense in connection therewith, arising out of or based upon damages or injuries to persons or property caused by the errors, omissions, fault or negligence of Lessee, its agents, employees, licensees, or contractors.

Lessor shall indemnify, defend, and hold harmless Lessee and its officers, elected officials, agents and employees from any claim, liability, damage, or loss occurring on the Premises, or any cost or expense in connection therewith, arising out of or based upon damages or injuries to persons or property caused by the errors, omissions, fault or negligence of Lessor, their agents, employees, licensees, or contractors.

26. HEIRS AND ASSIGNS

All of the rights, remedies, and obligations given to, imposed upon, or undertaken by the parties to this Lease shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, successors, officers, agents, insures (except as set forth herein), executors or personal representatives, and assigns (except as set forth herein) of each party.

27. MUTUAL EXECUTION

This Lease shall not be binding upon Lessor or Lessee until such time as both parties shall have executed it.

28. CONSTITUTIONAL DEBT LIMITATION

This agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

29. WARRANT OF AUTHORITY

Lessor warrants and represents that Lessor is the sole owner of the Premises subject to this Lease and that Lessor has full authority to execute this Lease. The undersigned, Glenn Kent Butler, warrants and represents that he has full authority to sign on behalf of Lessor.

LESSEE

CLACKAMAS COUNTY BOARD
OF COUNTY COMMISSIONERS by:

Jim Bernard, Chair

Mary Raethke, Recording Secretary

Christa Wolfe, Interim Finance Director

John Foote, District Attorney

Approved as to form:

Office of County Counsel

Date

LESSOR

GLENN KENT BUTLER REVOCABLE LIVING
TRUST and BUTLER LIVING TRUST

Glenn Kent Butler, Trustee

Glena Kay Butler, Trustee

Date



GEORGE MARLTON, JD
PROCUREMENT DIVISION DIRECTOR

PROCUREMENT DIVISION
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Purchase of Annual Technical Support Services from
Oracle America, Inc.**

Purpose/ Outcomes	To authorized continued software support services for the County finance and human resource software.
Dollar Amount and Fiscal Impact	\$335,032.80
Funding Source	747-0228-00-437231
Duration	September 30, 2018 to September 29, 2019
Previous Board Action	Approval of original contract in 1998 and subsequent annual renewals thereafter.
Strategic Plan Alignment	Build Public Trust through Good Government
Contact Person	George Marlton, x5442

BACKGROUND:

In 1998, the County purchased licenses and technical support services from PeopleSoft USA, Inc. for its Enterprise Resource Planning and Human Resources Information Management software. Subsequently, Oracle America, Inc. purchased PeopleSoft USA along with the County's contract. To continue receiving software maintenance services for the software, the County pays an annual technical support service fee. The current technical support service term is set to expire on September 29, 2018 and the County would like to continue the services for an additional annual term.

The County is in negotiation with Oracle for an expansion of licenses and associated maintenance services, however, those negotiations are not complete at this time. In order to ensure continuity of technical support services for currently owned licenses, we are requesting approval to continue these critical services.

The original procurement process contemplated the license fees and the ongoing technical support services, therefore an additional procurement process is not required. This request is to obtain the Board's approval for expenditure authority for a new one year continuation of services.

County Counsel has reviewed and approved the documents associated with the transaction.

RECOMMENDATION:

Staff recommends the Board of County Commissioners authorize the Procurement Division Director to execute any necessary contracts required to continue technical support services with Oracle America, Inc. for an additional annual term.

Respectfully submitted,



Procurement Division Director

Placed on the Agenda of _____ by the Procurement Division

DRAFT

Approval of Previous Business Meeting Minutes:
September 6, 2018

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<https://www.clackamas.us/meetings/bcc/business>

Thursday, September 6, 2018 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

**PRESENT: Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader**

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. Presentation Recognizing Damon Faust - American Legion's Firefighter of the Year
Tracy Moreland, County Administration presented the staff report. She introduced Ree Armitage from Senator Wyden Office.
Mr. Armitage read a letter from the Senators Wyden, Merkley, Congressman Schrader and Blumenauer congratulating Mr. Faust for his award. He also presented Damon with an American Flag that was flown over the Capitol.
Damon Faust – Gave thanks to everyone for this recognition.
Terry Brown, American Legion Post 74 in Estacada – Gave some significance of the Award and said that Damon is the first Firefighter from Oregon to receive this honor.
Chair Bernard acknowledged State Senator Thomsen and State Representative Lewis who were in the audience today.
The Board thanked Damon Faust for his outstanding dedication and service.

II. CITIZEN COMMUNICATION

<https://www.clackamas.us/meetings/bcc/business>

1. Clair Clock, Corbett – thanked the Board of their attention to zoning and development regarding preserving farm lands.
2. Les Poole, Gladstone – spoke about fire protection, transportation and tolling.
3. Bob Mahoney, Oregon City – suggestions regarding the homelessness issue.

~Board Discussion~

III. READING AND ADOPTION OF PREVIOUSLY APPROVED LAND USE ORDINANCE

(No public testimony on this item)

1. **ZDO 269**, Adoption of a Previously Approved Comprehensive Plan and the Zoning & Development Ordinance Accessory Dwelling Units, *Previously approved at the 8-1-18 land use hearing*
Nate Boderman, County Counsel presented the staff report. Jennifer Hughes, Planning Dept. answered some questions regarding this ZDO.

~Board Discussion~ <https://www.clackamas.us/meetings/bcc/business>

Chair Bernard asked for a motion.

MOTION:

Commissioner Schrader: I move we read ZDO-269 by title only.
Commissioner Humberston: Second.
all those in favor/opposed:

Commissioner Humberston: Aye.
Commissioner Fischer: Aye.
Commissioner Savas: Aye.
Commissioner Schrader: Aye.
Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.
Chair Bernard asked the Clerk to read ZDO-269 by title only, then asked for a motion.

MOTION:

Commissioner Savas: I move we Adopt ZDO-269, legislative amendments to the Clackamas County Comprehensive Plan and Zoning & Development Ordinance, Accessory Dwellings units as previously approved at the Aug. 1, 2018 Land Use Hearing.
Commissioner Schrader: Second.

~Board Discussion~

all those in favor/opposed:

Commissioner Humberston: Opposed. We need the creation of boundaries to keep junk heaps from spreading around.

Commissioner Fischer: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 4-1.

2. **ZDO 268**, Adoption of a Previously Approved Zoning & Development Ordinance, Amendments to the Special Use and Development Standards Provision of the Zoning & Development Ordinance, *Previously approved at the 8-15-18 land use hearing*

Nate Boderman, County Counsel, presented the staff report.

~Board Discussion~

Chair Bernard asked for a motion.

MOTION:

Commissioner Humberston: I move we read ZDO-268 by title only.

Commissioner Fischer: Second.

all those in favor/opposed:

Commissioner Humberston: Aye.

Commissioner Fischer: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

Chair Bernard asked the Clerk to read ZDO-268 by title only, then asked for a motion.

MOTION:

Commissioner Savas: I move we Adopt ZDO-268, amendments to the special use and Development Standards Provision of the Zoning & Development Ordinance, as previously approved at the Aug. 15, 2018 Land Use Hearing.

Commissioner Schrader: Second.

~Board Discussion~

all those in favor/opposed:

Commissioner Humberston: Aye.

Commissioner Fischer: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

IV. PUBLIC HEARINGS

Chair Bernard announced the Board will recess again as the Board of County Commissioners and convene as the Service District No. 5 Board for the next 12 public hearings.

Service District No. 5 (Street Lighting)

Wendi Coryell, Department of Transportation & Development, presented the following 12 Assessment Areas including a PowerPoint presentation.

1. **Board Order No. 2018-78** Forming a 19-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 03-14, Fox Haven Estates 19-Lot Subdivision
2. **Board Order No. 2018-79** Forming a 20-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 47-14, Gateway to Happy Valley 20-Lot Subdivision
3. **Board Order No. 2018-80** Forming a 7-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 01-18, Jackson Hills 5, 7-Lot Subdivision
4. **Board Order No. 2018-81** Forming a 68-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 44-17, Crossroads 68-Lot Subdivision
5. **Board Order No. 2018-82** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 34-17, Tri-Plex
6. **Board Order No. 2018-83** Forming a 13-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 07-17, Robbins Place 13-Lot Subdivision
7. **Board Order No. 2018-84** Forming a 55-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 13-18, Cereghino Farms 55-Lot Subdivision
8. **Board Order No. 2018-85** Forming a 7-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 28-18, 7-Lot Subdivision
9. **Board Order No. 2018-86** Forming a 34-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 46-17, Copper Heights 34-Lot Subdivision
10. **Board Order No. 2018-87** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 37-17, Princeton Village 104-Bed Residential Care Facility
11. **Board Order No. 2018-88** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 52-17, Vogel Rd. 24-Classroom Elementary School
12. **Board Order No. 2018-89** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 03-18, Mixed Use Self-Storage

Chair Bernard opened the public hearing and asked if anyone wished to speak on any of the 12 Assessment Areas, seeing none he closed the public hearings and asked for a motion.

MOTION:

- Commissioner Humberston: I move we approve the Board Orders forming the Assessment Areas within Clackamas County Service District No. 5 as presented.
- Commissioner Savas: Second.
- all those in favor/opposed:
- Commissioner Fischer: Aye.
- Commissioner Humberston: Aye.
- Commissioner Savas: Aye.
- Commissioner Schrader: Aye.
- Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

Chair Bernard announced the Board will adjourn as the Service District No. 5 Board and reconvene as the Board of County Commissioners for the remainder of the meeting.

V. CONSENT AGENDA

Chair Bernard asked the Clerk to read the consent agenda by title, then asked for a motion.

MOTION:

Commissioner Humberston: I move we approve the consent agenda.
Commissioner Schrader: Second.
all those in favor/opposed:
Commissioner Humberston: Aye.
Commissioner Fischer: Aye.
Commissioner Savas: Aye.
Commissioner Schrader: Aye.
Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

A. Health, Housing & Human Services

1. Approval of a Professional Services Agreement with Northwest EMS, LLC, to Provide Services as the Emergency Medical Services Medical Director – *Public Health*
2. Approval to Apply to Oregon Department of Veterans' Affairs for FY 2019 Distribution of Funds – *Social Services*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement with Oregon Department of Transportation for Strawberry Lane Pavement Repairs
2. Approval of Amendment No. 1 to the Supplemental Project Agreement No. 31087 with the Oregon Department of Transportation for the Canby (M.J. Lee) Ferry Bank Stabilization and Intelligent Transportation System (ITS) Project
3. **Board Order No. 2018-90** Correcting Board Order 2018-031 Accepting and Simultaneously Vacating Portions of Otty Street
4. Approval of Amendment No. 3 to the Contract with Parametrix for Engineering Services for the Carver, Springwater Road and Hwy 224 Signal Project - *Procurement*

C. County Counsel

1. **Resolution No. 2018-91** Declaring a Local State of Emergency and Declaring Emergency to Address Landside issue on Dickey Prairie Road

D. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
- *2. Approval of Fiscal Year 2018-2019 Local Subrecipient Grant Agreement between Clackamas County District Attorney's Office and the Children's Center of Clackamas County to Support Child Abuse Victims and their Families - *DA*

E. Business & Community Services

1. Approval of Modifications to the Clackamas Workforce Partnership Local Strategic Plan for Workforce and Industry Challenges

VI. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of a Grant Agreement with Water Environment Services for RiverHealth Stewardship
2. Approval of an Assignment of Intergovernmental Agreement by and between Oak Lodge Water District and North Clackamas Parks and Recreation District

VII. COUNTY ADMINISTRATOR UPDATE

<https://www.clackamas.us/meetings/bcc/business>

The following items were approved and signed by Don Krupp, County Administrator during the period of August 20, 2018 – August 31, 2018. This action was necessary while the Board of County Commissioners was on their August Recess - In accordance with County Ordinance 07-2015.

	DEPARTMENT	ITEM
1	Health, Housing & Human Services <i>Via Procurement</i>	Approval of an agreement with Good Energy Retrofit LLC for Weatherization Major Measure Construction Services
2	Tourism <i>Via Procurement</i>	Approval of the Contract Amendment with Borders Perrin Norrander (BPN) for Marketing Agency of Record Services for the Tourism & Cultural Affairs Department
3	Technology Services	Approval of Amendment No. 3 to the Service Level Agreement between Clackamas Broadband eXchange and the State of Oregon, OLCC
4.	Tourism <i>Via Procurement</i>	Authorization to Renew Visitor Information Services for an additional 9 years for Mt. Hood Cultural Center & Museum
5	Tourism <i>Via Procurement</i>	Authorization to Renew Visitor Information Services for an additional 9 years for Clackamas Heritage Partners
6	WES <i>Via Procurement</i>	Approval of a Public Improvement Contract between Water Environment Services and Braun Construction & Design, for Drainage system Modifications
7	Technology Services <i>Via Procurement</i>	Approval of an Intent to Purchase with Environmental Systems Research Inc. (ESRI) for GIS Server Enterprise Standard Software Upgrade
8	Technology Services <i>Via Procurement</i>	Approval of an Intent to Purchase with Environmental Systems Research Inc. (ESRI) for GIS Software Maintenance, upgrades, support and Licensing
9.	WES <i>Via Procurement</i>	Approval of Purchase from North Star Chemical for Sodium Hypochlorite for Water Environment Service Waste Treatment Plants

VIII. COMMISSIONERS COMMUNICATION

<https://www.clackamas.us/meetings/bcc/business>

MEETING ADJOURNED – 11:49 AM



CLACKAMAS COUNTY

Office of County Clerk

SHERRY HALL
CLERK

1710 Red Soils Ct. Ste 100
OREGON CITY, OR 97045
503.722.6086

Board of County Commissioners
Clackamas County

September 27, 2018

Members of the Board:

Approval of a Cooperative Agreement with
Employers Overload temp agency, for payroll solutions for Election Board Workers

Purpose/Outcomes	Provides more efficient payroll services for temporary election board workers.
Dollar Amount and Fiscal Impact	\$65,000, which is already approved in our budget.
Funding Source	Election Board budgeted line item, already approved for FY18-19
Duration	Cooperative Agreement through Washington County would last until March of 2019
Previous Board Action	None
Strategic Plan Alignment	1. Serves citizens with a more efficient election process. 2. Reduces costs and paperwork for Human Resources and Elections staff 3. Increases capacity for ballot processing
Contact Person	Andrew Jones, Elections Manager, 503-722-6089
Contract No.	Washington County contract #CA 18-0152

BACKGROUND:

Clackamas County Elections Division is seeking a payroll solution for Election Board Workers (EBWs). EBWs are vital staff (80-150 individuals) that facilitate the conduct of vote-by-mail elections in Clackamas County. EBWs typically work a very short time period (1 day-3 weeks) during each election cycle (4-6 months), and their hours can vary greatly depending on voter turnout. The Elections Division will be responsible for all recruitment, onboarding, scheduling, and timesheet management for EBWs. Employers Overload will maintain EBWs on their active payroll available for Elections to schedule employees when necessary. The project cost should not exceed \$65,000 per fiscal year.

RECOMMENDATION:

Staff recommends the Board approve the cooperative agreement.

Respectfully submitted,

Sherry Hall
Clackamas County Clerk

Board of Property Tax Appeals
1710 Red Soils Court, Ste 100
Oregon City, OR 97045
503.655.8662
FAX 503.650.5687

Elections Division
1710 Red Soils Court, Ste 100
Oregon City, OR 97045
503.655.8510
FAX 503.655.8461

Recording Division
1710 Red Soils Court Ste 110
Oregon City, OR 97045
503.655.8551
FAX 503.650.5688

Records Management Division
1810 Red Soils Court, Ste 120
Oregon City, OR 97045
503.655.8323
FAX 503.655.8195



GARY SCHMIDT
DIRECTOR

PUBLIC AND GOVERNMENT AFFAIRS
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County and the City of Lake Oswego regarding payment for services related to Willamette Falls Locks

Purpose/Outcomes	Approve an Intergovernmental Agreement between Clackamas County and the City of Lake Oswego regarding payment for services related to Willamette Falls Locks State Commission
Dollar Amount and Fiscal Impact	\$12,000 to Clackamas County, Public & Government Affairs.
Funding Source	Lake Oswego to contribute \$12,000 to Clackamas County (PGA)
Safety Impact	N/A
Duration	N/A
Previous Board Action	Board approved contract Willamette Falls Locks Project Management Contract on March 29, 2018
Contact Person	Gary Schmidt, Public and Government Affairs, 503-742-5908
Contract No.	#2017-89 Willamette Falls Locks Project Management

BACKGROUND:

Senate Bill 256 (Oregon State Legislature 2017) established a Willamette Falls Locks State Commission. The mission of the State Commission as assigned by SB 256 calls for work that would lead towards the transfer of the Willamette Falls Locks to a non-federal owner. Anticipated work to reach that conclusion includes: engineering studies, finance and governance modeling, and state and federal advocacy. Contracted work totals \$865,000.

Participating members of the Willamette Falls Locks stakeholders agreed to share the cost of funding the project contractor. Clackamas County, along with Metro and the participating river cities (jointly) agreed to each pay \$120,000 over the first two years of the State Commission. Clackamas County is using state lottery funds from Business and Community Services to fund its commitment. Tourism and Cultural Affairs has also collected funds from local tourism stakeholders, and various river users also contribute towards the total amount.

As the contract manager, Clackamas County will receive funds from participating cities fulfilling the \$120,000 commitment. The city of West Linn is coordinating city payments, but funds come directly to the county from the various cities accompanied by an intergovernmental agreement (IGA) that acts as a receipt. In exchange Clackamas County will act as the project manager to supervise of the work of the due diligence and project management firm as required by the State Commission.

This Intergovernmental Agreement is between Lake Oswego and Clackamas County. Lake Oswego will fund \$6,000 a year for two years for the Willamette Falls Locks project coordinator. Payments are due by the end of June 2019.

Clackamas County released a RFP in November 2017 seeking a project management firm to perform the due diligence work required by the State Commission. The selected bidder is Summit Strategies, LLC.

Clackamas County has an existing contract with Summit Strategies, LLC for federal representation services. This contract is separate from that contract.

RECOMMENDATION:

Staff recommends Board approval of the Intergovernmental Agreement between Clackamas County and the City of Lake Oswego.

Respectfully submitted,

Gary Schmidt
Director, Public and Government Affairs

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CITY OF LAKE OSWEGO**

This Intergovernmental Agreement (“Agreement”) is entered into by and between **Clackamas County** (“County”), a political subdivision of the State of Oregon, and the **City of Lake Oswego** (“City”), an Oregon municipal corporation, for the provision of project management and due diligence services provided to the **Oregon State Commission for Willamette Falls Locks**, (“Commission”), formed under 2017 SB 256, 2017 Oregon Session Laws Ch. 734, ORS 358.640 (Temporary provisions relating to Willamette Falls Locks Commission). This Agreement is authorized pursuant to ORS 190.010, and ORS 190.110.

1. **Effective Date and Duration.** This Agreement shall become effective upon signature by City representative. Unless earlier terminated or extended, this Agreement shall expire on June 30, 2019 (“Expiration Date”). This Agreement may be otherwise extended by mutual written agreement of the parties at any time prior to its Expiration Date.
2. **Statement of Work.** County agrees to perform the project management and due diligence work in accordance with the terms and conditions of this Agreement as reflected in Attachment 1. County agrees that it shall use the contributions from the funding partners in support of consulting services pertaining to and in support of the Commission and the goals of the Project as defined in 2017 Oregon Session Laws Ch. 743, Section 2. The County agrees to solicit through a competitive process the required project management and due diligence consulting services. The County further agrees to convene the staff from the contributing partners to provide guidance and support to the Commission and consultants.
3. **Consideration.** City agrees that it shall contribute \$6,000 per year for two years to the County to support the project management and due diligence facilitation upon execution of this agreement.
4. **Schedule of Performance.** The delivery schedule for the provision of these services is intended to be completed by June 30, 2019.
5. **Project Managers; Notice.** Each party has designated a project manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate individual. To be effective, any notice required to be given under this Agreement may be given by personal delivery to the address below or may be sent by certified mail, return receipt requested and if sent via certified mail return receipt requested such notice will be deemed delivered three business days after postmark. Notice may also be given by overnight delivery service, effective upon receipt of such delivery.

City
Scott Lazenby
City Manager,
City of Lake Oswego
PO Box 369
Lake Oswego OR 97034
(503) 635-0214

Clackamas County
Gary Schmidt
Director, Clackamas County
Public and Government Affairs
2051 Kaen Rd., Suite 450
Oregon City, OR 97045
(503) 742-5908

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
7. **Termination.**
 - A. The parties may agree to an immediate termination of this Agreement or at a time certain upon mutual written consent.
 - B. Either party may terminate this Agreement effective not less than 30 days from delivery of written notice for any reason. City shall be responsible for any costs of Work done on its behalf prior to the effective date of the termination.
 - C. Either party may terminate this Agreement in the event of a breach by the other party. However, prior to such termination, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the breaching party has not cured the breach within 10 days or a longer period as granted in the cure notice, the party seeking compliance may terminate this Agreement.
8. **Funds Available and Authorized.** Both parties certify that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within each party's current appropriation and limitation through fiscal year 2018-2019. Both parties understand and agree that payment of amounts under this Agreement attributable to Work performed after the end of the current fiscal year is contingent on either party receiving appropriations, limitations, or other expenditure authority. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
9. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.
10. **Access to Records.** Both parties and their duly authorized representatives shall have access to the documents, papers, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcript.

11. **Compliance with Applicable Law.** Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Both party's performance under this Agreement is conditioned upon either parties compliance with the provisions of the Oregon Revised Statutes, including but not limited to ORS 279A, B, and C, which are incorporated by relevant reference herein. Notwithstanding the foregoing, the County is solely responsible for any and all contracts and subcontracts associated with the project management and due diligence work to be funded by this Agreement, including but not limited to procurement under applicable public contracting laws, contract management, and payments to contractors and subcontractors. County acknowledges that other than City's payment of funds to the County, City has no other obligation or responsibility for this the project management and due diligence work.
12. **No Third Party Beneficiary.** The County and City are the only parties to this Agreement and as such, are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
13. **Indemnification.** Within the limits of the Oregon Tort Claims Act, each party agrees to indemnify and defend the other and its elected officials, officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this Agreement, excluding the cost of defense and attorney fees, arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its elected officials, employees, agents, subcontractors or representatives.
14. **Merger Clause.** This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
15. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
16. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable

shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

City of Lake Oswego

Clackamas County Board of County Commissioners by:

Scott Lazenby, City Manager

Chair

Date

Date

Recording Secretary

Approved as to Form:

County Counsel

Attachment 1

Project Management and Due Diligence Work Program

- Overall Project Management – A single overall project manager should be identified with responsibility to manage the full work program, including work elements being carried out by other consultants and agency staffs.
- Governance – A key conclusion of this effort will be to identify a transferee and the governance structure through which to implement the transfer of the Locks from the Corps to a new owner.
- Funding – The companion conclusion to the governance question will be to determine the appropriate funding strategy to implement needed capital repairs and support ongoing operations, maintenance, and periodic capital improvements.
- Engineering – The Consultant team should include a civil engineer with experience with locks. This person will be responsible for consulting with the Corps to fully understand their engineering assessment, verify the scope of work for each repair item, confirm costs and assist the Locks Commission in finalizing an agreed upon short- and long-term capital repair plan.
- Public Outreach – The Consultant, working with the assistance of the full partners group will design and implement an appropriate public outreach work program with an eye toward building a base of support for ultimate implementation.
- Advocacy – The Consultant will develop and manage the best approach for any state or federal legislative and administrative advocacy stemming from recommendations by the Commission or full partners group.
- Agency Organization Structure and Capabilities – With the assistance of the full partners group and accessing the experience of the Corps, the Consultant will be responsible for defining the staffing and resources required for the transferee to be successful.
- Other studies and issues as required – As the project manager, the Consultant will be required to identify issues to be addressed and ensure that resources from the Consultant and/or the full partners group are assigned to analyze or otherwise address the issue.

Commission Proposal – The Consultant will be responsible for drafting the final Commission proposal



September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County and the City of Oregon City regarding payment for services related to Willamette Falls Locks

Purpose/Outcomes	Approve an Intergovernmental Agreement between Clackamas County and the City of Oregon City regarding payment for services related to Willamette Falls Locks State Commission
Dollar Amount and Fiscal Impact	\$14,000 to Clackamas County, Public & Government Affairs.
Funding Source	Oregon City to contribute \$14,000 to Clackamas County (PGA)
Safety Impact	N/A
Duration	N/A
Previous Board Action	Board approved contract Willamette Falls Locks Project Management Contract on March 29, 2018
Contact Person	Gary Schmidt, Public and Government Affairs, 503-742-5908
Contract No.	#2017-89 Willamette Falls Locks Project Management

BACKGROUND:

Senate Bill 256 (Oregon State Legislature 2017) established a Willamette Falls Locks State Commission. The mission of the State Commission as assigned by SB 256 calls for work that would lead towards the transfer of the Willamette Falls Locks to a non-federal owner. Anticipated work to reach that conclusion includes: engineering studies, finance and governance modeling, and state and federal advocacy. Contracted work totals \$865,000.

Participating members of the Willamette Falls Locks stakeholders agreed to share the cost of funding the project contractor. Clackamas County, along with Metro and the participating river cities (jointly) agreed to each pay \$120,000 over the first two years of the State Commission. Clackamas County is using state lottery funds from Business and Community Services to fund its commitment. Tourism and Cultural Affairs has also collected funds from local tourism stakeholders, and various river users also contribute towards the total amount.

As the contract manager, Clackamas County will receive funds from participating cities fulfilling the \$120,000 commitment. The city of West Linn is coordinating city payments, but funds come directly to the county from the various cities accompanied by an intergovernmental agreement (IGA) that acts a receipt. In exchange Clackamas County will act as the project manager to supervise of the work of the due diligence and project management firm as required by the State Commission.

This Intergovernmental Agreement is between Oregon City and Clackamas County. Oregon City will fund \$7,000 a year for two years for the Willamette Falls Locks project coordinator. Oregon City is making a lump sum payment of \$14,000 for both years.

Clackamas County released a RFP in November 2017 seeking a project management firm to perform the due diligence work required by the State Commission. The selected bidder is Summit Strategies, LLC.

Clackamas County has an existing contract with Summit Strategies, LLC for federal representation services. This contract is separate from that contract.

RECOMMENDATION:

Staff recommends Board approval of the Intergovernmental Agreement between Clackamas County and the City of Oregon City.

Respectfully submitted,

Gary Schmidt
Director, Public and Government Affairs

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND THE CITY OF OREGON CITY**

This Intergovernmental Agreement (“Agreement”) is entered into by and between **Clackamas County** (“County”), a political subdivision of the State of Oregon, and the **City of Oregon City** (“City”), an Oregon municipal corporation, for the provision of project management and due diligence services provided to the **Oregon State Commission for Willamette Falls Locks**, (“Commission”), formed under 2017 SB 256, 2017 Oregon Session Laws Ch. 734, ORS 358.640 (Temporary provisions relating to Willamette Falls Locks Commission). This Agreement is authorized pursuant to ORS 190.010, and ORS 190.110.

1. **Effective Date and Duration.** This Agreement shall become effective upon signature by City representative. Unless earlier terminated or extended, this Agreement shall expire on June 30, 2019 (“Expiration Date”). This Agreement may be otherwise extended by mutual written agreement of the parties at any time prior to its Expiration Date.
2. **Statement of Work.** County agrees to perform the project management and due diligence work in accordance with the terms and conditions of this Agreement as reflected in Attachment 1. County agrees that it shall use the contributions from the funding partners in support of consulting services pertaining to and in support of the Commission and the goals of the Project as defined in 2017 Oregon Session Laws Ch. 743, Section 2. The County agrees to solicit through a competitive process the required project management and due diligence consulting services. The County further agrees to convene the staff from the contributing partners to provide guidance and support to the Commission and consultants.
3. **Consideration.** City agrees that it shall contribute Seven Thousand and no/100 Dollars (\$7,000.00) each year in 2017 – 2018 and 2018 – 2019, for a total of Fourteen Thousand and no/100 Dollars (\$14,000) to the County to support the project management and due diligence facilitation upon execution of this agreement.
4. **Schedule of Performance.** The delivery schedule for the provision of these services is intended to be completed by June 30, 2019.
5. **Project Managers; Notice.** Each party has designated a project manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate individual. To be effective, any notice required to be given under this Agreement may be given by personal delivery to the address below or may be sent by certified mail, return receipt requested and if sent via certified mail return receipt requested such notice will be deemed delivered three (3) business days

after postmark. Notice may also be given by overnight delivery service, effective upon receipt of such delivery.

City of Oregon City
Tony Konkol
City Manager,
City of Oregon City
625 Center Street
Oregon City, OR 97045
(503) 657-0891

Clackamas County
Gary Schmidt
Director, Clackamas County
Public and Government Affairs
2051 Kaen Rd., Suite 450
Oregon City, OR 97045
(503) 742-5908

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
7. **Termination.**
 - A. The parties may agree to an immediate termination of this Agreement or at a time certain upon mutual written consent.
 - B. Either party may terminate this Agreement effective not less than 30 days from delivery of written notice for any reason. City shall be responsible for any costs of Work done on its behalf prior to the effective date of the termination.
 - C. Either party may terminate this Agreement in the event of a breach by the other party. However, prior to such termination, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the breaching party has not cured the breach within 10 days or a longer period as granted in the cure notice, the party seeking compliance may terminate this Agreement.
8. **Funds Available and Authorized.** Both parties certify that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within each party's current appropriation and limitation through fiscal year 2018-2019. Both parties understand and agree that payment of amounts under this Agreement attributable to Work performed after the end of the current fiscal year is contingent on either party receiving appropriations, limitations, or other expenditure authority. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
9. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

10. **Access to Records.** Both parties and their duly authorized representatives shall have access to the documents, papers, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcript.
11. **Compliance with Applicable Law.** Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Both party's performance under this Agreement is conditioned upon either parties compliance with the provisions of the Oregon Revised Statutes, including but not limited to ORS 279A, B, and C, which are incorporated by relevant reference herein. Notwithstanding the foregoing, the County is solely responsible for any and all contracts and subcontracts associated with the project management and due diligence work to be funded by this Agreement, including but not limited to procurement under applicable public contracting laws, contract management, and payments to contractors and subcontractors. County acknowledges that other than City's payment of funds to the County, City has no other obligation or responsibility for this the project management and due diligence work.
12. **No Third Party Beneficiary.** The County and City are the only parties to this Agreement and as such, are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
13. **Indemnification.** Within the limits of the Oregon Tort Claims Act, each party agrees to indemnify and defend the other and its elected officials, officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this Agreement, excluding the cost of defense and attorney fees, arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its elected officials, employees, agents, subcontractors or representatives.
14. **Merger Clause.** This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
15. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

16. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

City of Oregon City

Clackamas County Board of County Commissioners by:



Tony Konkol, City Manager

Chair

8-10-18

Date

Date

Recording Secretary

Approved as to Form:

County Counsel

Attachment 1

Project Management and Due Diligence Work Program

- Overall Project Management – A single overall project manager should be identified with responsibility to manage the full work program, including work elements being carried out by other consultants and agency staffs.
- Governance – A key conclusion of this effort will be to identify a transferee and the governance structure through which to implement the transfer of the Locks from the Corps to a new owner.
- Funding – The companion conclusion to the governance question will be to determine the appropriate funding strategy to implement needed capital repairs and support ongoing operations, maintenance, and periodic capital improvements.
- Engineering – The Consultant team should include a civil engineer with experience with locks. This person will be responsible for consulting with the Corps to fully understand their engineering assessment, verify the scope of work for each repair item, confirm costs and assist the Locks Commission in finalizing an agreed upon short- and long-term capital repair plan.
- Public Outreach – The Consultant, working with the assistance of the full partners group will design and implement an appropriate public outreach work program with an eye toward building a base of support for ultimate implementation.
- Advocacy – The Consultant will develop and manage the best approach for any state or federal legislative and administrative advocacy stemming from recommendations by the Commission or full partners group.
- Agency Organization Structure and Capabilities – With the assistance of the full partners group and accessing the experience of the Corps, the Consultant will be responsible for defining the staffing and resources required for the transferee to be successful.
- Other studies and issues as required – As the project manager, the Consultant will be required to identify issues to be addressed and ensure that resources from the Consultant and/or the full partners group are assigned to analyze or otherwise address the issue.

Commission Proposal – The Consultant will be responsible for drafting the final Commission proposal



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Resolution Appointing the Board of County Commissioners
As the Local Board of Health

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Jeff Heinrich
 Assistants

Purpose/Outcomes	Approve a resolution forming a Local Board of Health to oversee and develop policy and ordinances for oversight of the Local Public Health Administrator and the Public Health Division of H3S.
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Permanent
Previous Board Action	Policy session on September 18, 2018
Strategic Plan Alignment	Ensure safe, healthy and secure communities
Contact Person	Kathleen Rastetter
Contract No.	N/A

BACKGROUND:

A Local Board of Health aligns with Oregon’s Public Health Modernization standards that encourages the Public Health Division to boldly expand the scope and reach of public health and public policy to address all factors that promote health and well-being, including those related to economic development, education, transportation, food, environment and housing. A Local Board of Health helps to ensure safe, healthy and secure communities for its citizens by developing health and safety policies and ordinances to guide Public Health in fulfilling its mission.

The Board of County Commissioners (BCC) historically acted as the Local Board of Health under state law. When the state public health laws were updated, the statutory authority for our Local Board of Health was repealed. There is no current functioning Local Board of Health. A resolution to form a Local Board of Health is attached.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners adopt the attached resolution forming a Local Board of Health.

Respectfully submitted,



Kathleen Rastetter
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Resolution
Appointing the BCC as the Local
Board of Health



Board Order No. _____
Page 1 of 1

Whereas, Clackamas County is the Local Public Health Authority under Oregon Public Health Laws; and

Whereas, Clackamas County desires to provide the Local Public Health Administrator and the Clackamas County Health, Housing and Human Services, Public Health Division, with guidance and supervision of its public health activities; and

Whereas, to address these issues the Board of County Commissioners wishes to create a Local Board of Health as the governing body over the Local Public Health Administrator and the county's public health activities; and

Whereas, Clackamas County finds that it is in the best interest of the County to form a Local Board of Health;

NOW THEREFORE, the Clackamas County Board of County Commissioners resolves as follows:

1. The Board of Commissioners hereby create a Local Board of Health and name the Clackamas County Board of Commissioners as the members of the Local Board of Health; and
2. The Local Board of Health shall have all the authority granted to the governing body of a Local Public Health Authority under Oregon Public Health Laws.

DATED this ____ day of September, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Settlement Agreement in the Case of
Swanson v. Clackamas County Sheriff's Office, et al.

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Jeff Heinrich
Assistants

Purpose/Outcomes	Authorize settlement of lawsuit brought by Matt Swanson against the Sheriff's Office, Sheriff Craig Roberts and Undersheriff Matt Ellington
Dollar Amount and Fiscal Impact	\$235,000
Funding Source	County Risk Fund
Duration	Full and Final Release and Settlement
Previous Board Action	The Board has been apprised of various developments in this case over the course of the litigation, the most recent being on September 10, 2018.
Strategic Plan Alignment	Build public trust through good government
Contact Person	Stephen L. Madkour, County Counsel
Contract No.	N/A

BACKGROUND:

Matt Swanson is a Sergeant with the Clackamas County Sheriff's Office. Swanson filed suit against the Sheriff's Office, Sheriff Roberts, and Undersheriff Ellington. In that lawsuit he alleged claims of retaliation, harassment, and hostile work environment.

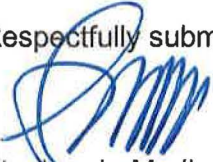
The Risk Manager, County Counsel, and the County Administrator have settlement authority up to \$100,000. The Board of County Commissioners has exclusive settlement authority of those settlements in excess of \$100,000.

The proposed settlement reached by the parties in this case is \$235,000. The terms of the proposed settlement are set forth in the attached draft Mutual Release and Settlement Agreement. Once settled, plaintiff will dismiss all claims alleged in the suit.

RECOMMENDATION:

Staff respectfully requests that the Board of County Commissioners authorize the settlement as proposed and as set forth in the draft Mutual Release and Settlement Agreement.

Respectfully submitted,



Stephen L. Madkour
County Counsel

Attachment:
Mutual Release and Settlement Agreement

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS

This Settlement Agreement and General Release of Claims (“Agreement”) is made and entered into on the one hand by Matthew Swanson (“Swanson”), an individual, and on the other hand by Clackamas County (County), Clackamas County Sheriff’s Office (“CCSO”), Sheriff Craig Roberts (“Roberts”), and Undersheriff Matt Ellington (“Ellington”). This Agreement becomes effective and enforceable after seven calendar days have passed following Swanson’s execution of the Agreement as provided in Section 7 of this Agreement and after a majority of the County Commissioners have approved the Agreement as provided in Section 4 of this Agreement (hereinafter referred to as “Effective Date”).

1. Meaning of Terms.

- a. As used herein, “Swanson” shall mean Matthew Swanson, his spouse, heirs, executors, administrators, agents, insurers, attorneys, assigns, and anyone claiming through him.
 - b. As used herein, “County” shall mean Clackamas County, all divisions and departments within Clackamas County, including the Clackamas County Sheriff’s Office, all past and present employees and managers (in their individual and representative capacities), all past and present officers, all past and present commissioners, insurers, attorneys, and agents.
 - c. As used herein, “CCSO” shall mean Clackamas County Sheriff’s Office, all past and present employees and managers (in their individual and representative capacities including but not limited to Undersheriff Craig Roberts and Undersheriff Matt Ellington), all past and present officers, insurers, attorneys, and agents.
 - d. As used herein, “Roberts” shall mean Sheriff Craig Roberts, his spouse, heirs, executors, administrators, agents, insurers, attorneys, assigns, and anyone claiming through him.
 - e. As used herein, “Ellington” shall mean Undersheriff Matt Ellington, his spouse, heirs, executors, administrators, agents, insurers, attorneys, assigns, and anyone claiming through him.
 - f. As used herein, “Defendants” shall mean CCSO, Roberts, and Ellington.
 - g. As used herein, “County Releasees” shall mean collectively County, CCSO, Roberts, and Ellington.
 - h. As used herein, “Parties” shall mean collectively Swanson, County, CCSO, Roberts, and Ellington.
2. Purpose. The Parties desire to settle and compromise fully and finally any and all differences between them including, but not limited to, disputes related to Swanson’s employment and separation from employment as well as all claims asserted in Swanson’s lawsuit and all claims asserted in correspondence between them, and all matters which could have been asserted, and any and all additional claims Swanson has or might have asserted against County Releasees.

3. Consideration. In consideration of this Agreement, the County will provide Swanson Two Hundred Thirty-Five Thousand and No/100 Dollars (\$235,000.00) inclusive of all costs and attorneys' fees (the "Consideration"). The County shall cause the Consideration to be delivered to Swanson's attorney of record, Randy J. Harvey of Bassinger & Harvey, PO Box 1309, Sherwood, Oregon 97140 no later than 20 calendar days after this Agreement has been executed by all Parties to this Agreement.
4. Settlement Tentative Until Formally Approved By the Board of Commissioners. The settlement and the settlement documents must be approved by a majority of the five-member Clackamas County Board of Commissioners at a duly noticed public meeting.
5. Payment of Applicable Taxes. Swanson is and shall be solely responsible for all federal, state, and local taxes that may be owed by Swanson by virtue of the receipt of all or any portion of the monetary payment or Consideration provided under this Agreement, except, however, with respect to any liability or obligation that the County may have as to payroll-related tax withholdings and/or as required by applicable law. Swanson agrees to indemnify and hold the County harmless from any and all liability, including, without limitation, all penalties, interest, and other costs that may be imposed by the Internal Revenue Service or other federal or state agencies regarding any tax obligations that may arise from the treatment of the monetary consideration under this Agreement. Swanson acknowledges that the County has provided no advice concerning tax, benefits, or benefit eligibility issues in connection with the negotiation of this Agreement.
6. Mutual Releases.
 - a. Swanson's Release to County Releasees. In consideration of the Agreement, Swanson, for Swanson personally and Swanson's spouse, heirs, executors, administrators, successors and assigns, fully, finally, and forever releases and discharges County Releasees and their affiliates, as well as his, its, or their respective successors, assigns, officers, owners, spouses, agents, representatives, employees, managers, commissioners, attorneys, insurers, and employees (collectively, "County Releasees") of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, as a result of actions or omissions occurring through the Effective Date of this Agreement. Specifically included in this waiver and release are, without limitation, all claims Swanson may have that arose prior to the signing of this Agreement, and he hereby specifically waives and releases all claims against the County Releasees to the extent any such claim could be asserted, including, but not limited to, those arising under any federal or state law or local ordinances. That includes by way of illustration those arising under the Age Discrimination in Employment Act, any federal employment law, Oregon Chapters 652, 653, 659 and 659A; any tort, employment contract (express or implied, oral, or written), public policy, claims of retaliation including claims for failure to promote or claims based upon prior grievances, complaints, or lawsuits including the filing of this lawsuit, whistleblower claims, claims of aiding and abetting, or any other claims; under the common law, intentional infliction of emotional distress, reckless infliction of emotional distress, negligent infliction of emotional distress, harassment, hostile work environment, assault and battery, negligence or gross negligence, or defamation, whether such claims arose or may have arisen individually, through a governmental

agency, class of employees; and any and all claims for attorneys' fees. This release includes any and all claims of any nature that Swanson may have that arose prior to the date of his signature on this Agreement. This is a full and final waiver and release of any such claims that Swanson has or might have asserted against the Defendant Releasees and he intends that the release have the broadest effect possible under law. Swanson represents that he has no claim against the Defendant Releasees which is not released under this Agreement.

- b. Defendants' Release to Swanson. In consideration of the Agreement, Defendants fully, finally, and forever release and discharge Swanson and his respective successors, assigns, spouse, agents, representatives, attorneys, and insurers (collectively, "the Swanson Releasees") of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, as a result of actions or omissions occurring through the Effective Date of this Agreement. Specifically included in this waiver and release are, without limitation, all claims Defendants may have that arose prior to the signing of this Agreement, and Defendants hereby specifically waive and release all claims against the Swanson Releasees to the extent any such claim could be asserted, including, but not limited to, those arising under any federal or state law or local ordinances. That includes by way of illustration those arising under any federal employment law, Oregon Chapters 652, 653, 659 and 659A; any tort, employment contract (express or implied, oral, or written), public policy, claim of retaliation, claim of aiding and abetting, or any other claim; under the common law, claims for wrongful discharge, intentional infliction of emotional distress, reckless infliction of emotional distress, negligent infliction of emotional distress, harassment, hostile work environment, assault and battery, negligence or gross negligence, or defamation, whether such claims arose or may have arisen individually, through a governmental agency, class of employees; and any and all claims for attorneys' fees. This release includes any and all claims of any nature that Defendants may have that arose prior to the date of their signatures on this Agreement. This is a full and final waiver and release of any such claims that Defendants have or might have asserted against the Swanson Releasees and they intend that the release have the broadest effect possible under law. Defendants represent that they have no claim against the Swanson Releasees which is not released under this Agreement.
7. Compliance with the Older Workers Benefit Protection Act. This Agreement is subject to the terms of the Older Workers Benefit Protection Act of 1990 ("OWBPA"), which provides that an individual cannot waive a right or claim under the Age Discrimination in Employment Act ("ADEA") unless the waiver is knowing and voluntary. Pursuant to the terms of the OWBPA, Swanson acknowledges that he has executed this Agreement voluntarily and with full knowledge of its consequences. Swanson is hereby advised to seek counsel regarding whether to sign this Agreement and acknowledges that he has done so. Swanson further acknowledges that this Agreement is written in a manner that is calculated to be understood, that he does understand it, that it applies to any rights he may have under the ADEA, that it releases claims up to the date it is signed but not claims or rights that he may have under the ADEA that arise after it is signed, that he is receiving consideration or benefits in addition to those to which he is already entitled, and that he has a period of up to 21 (twenty-one) calendar days to consider this Agreement, but knowingly and voluntarily waives that right by signing it on an earlier date if he does so.

Swanson further acknowledges, understands, and agrees that this Agreement shall not become effective or enforceable as a waiver of his ADEA claims until seven (7) calendar days after it is executed by him and that until seven (7) days have passed he may revoke this Agreement. Swanson will provide written notice of any such revocation to CCSO.

8. No Filings and Covenant Not to Sue of the Parties. A “covenant not to sue” is a legal term that means a person promises not to file a lawsuit or other legal proceeding. It is different from the release of claims contained above. Besides waiving and releasing the claims above, the Parties promise never to file or prosecute any legal claim of any kind against each other in any forum for any reason based on any act, omission, event, occurrence, or non-occurrence, through the Effective Date of this Agreement, including but not limited to claims, laws, or theories covered by the Parties’ Releases contained in Section 6 above.
9. Dismissal of Litigation. This release is given in full compromise and settlement of the claims of Swanson against Defendants in Civil Case No. 13:18-cv-00913-AC in the United States District Court for the District of Oregon wherein Matthew Swanson appears as Plaintiff and Clackamas County Sheriff’s Office, Sheriff Craig Roberts, and Undersheriff Matt Ellington appear as Defendants. In consideration of the foregoing, Swanson and Defendants direct entry of judgment of dismissal with prejudice and without costs or attorneys’ fees as to all of Swanson’s claims against Defendants in that certain action (Civil Case No. 13:18-cv-00913-AC) in a form attached hereto and incorporated herein by reference.
10. Exceptions to the Release. This Agreement is not intended to waive or release any claims by either party to enforce this Agreement.
11. Non-Admission. This Agreement shall not be construed as an admission by any party of any liability or acts of wrongdoing or statutory violations, nor shall it be considered to be evidence of such liability, wrongdoing, or statutory violations.
12. Waiver. No waiver of any term of this Agreement shall constitute a waiver of any other terms, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. Any party may waive any provision of this Agreement intended for its benefit, but such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.
13. Arbitration. Any controversy, claim, or dispute arising out of or relating to the settlement agreement and mutual release shall be resolved exclusively by arbitration in Oregon using the Arbitration Service of Portland. The prevailing party shall be entitled to their attorneys’ fees and costs.
14. Voluntary and Knowing Agreement. Each party hereto states that the party has carefully read this Agreement, that the party has had the opportunity to have it reviewed and explained to the party by an attorney of his choosing, that the party fully understands its final and binding effect, and that the party is signing this Agreement voluntarily and with the full intent of releasing the applicable Releasees from all claims.

15. Entire Agreement. This Agreement sets forth the entire agreement between the Parties. Swanson is not relying on any other agreements or oral representations not fully addressed in this Agreement. Any prior agreements between or directly involving Swanson and County Releasees are superseded by this Agreement. The provisions of this Agreement are severable, and if any part of this Agreement is found by a court of law to be unenforceable, the remainder of this Agreement will continue to be valid and effective. The headings in this Agreement are provided for reference only and shall not affect the substance of this Agreement.
16. Counterparts. This Agreement may be executed by email or facsimile and in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts shall constitute one agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement and General Release of Claims on the respective dates set forth below.

CLACKAMAS COUNTY

By: _____

Title: _____

Date: _____, 2018

Matthew Swanson

Date: _____, 2018

CLACKAMAS COUNTY SHERIFF'S OFFICE

By: _____

Title: _____

Date: _____, 2018

Craig Roberts

Date: _____, 2018

Matt Ellington

Date: _____, 2018



BUSINESS & COMMUNITY SERVICES

150 BEAVERCREEK ROAD
OREGON CITY, OR 97045
WWW.CLACKAMAS.US/BCS
LAURA ZENTNER, DIRECTOR

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Oregon Business Development Department
Brownfields Redevelopment Fund Grant Contract**

Purpose/Outcomes	Feasibility and development of a Business Plan leading to the formation of a Clackamas County Land Bank Authority that would repurpose Brownfield sites for additional employment lands and/or affordable housing.
Dollar Amount and Fiscal Impact	The grant award is \$25,000. Business & Community Services Economic Development Division will provide 50% of project costs as matching funds for a total project cost of \$50,000. Project funds were approved in the FY 18/19 County BCS - Economic Development budget.
Funding Source	Business Oregon - State of Oregon Project No. N18009
Duration	Grant through September, 2020
Previous Board Action	BCC approval on March 8, 2018 to apply to State of Oregon to fund study and feasibility of a Clackamas County Land Bank Authority
Strategic Plan Alignment	1. Grow a vibrant economy 2. Build a strong infrastructure 3. Ensure safe, healthy and secure communities
Contact Person	Catherine Grubowski-Johnson, Manager, BCS - Economic Development

BACKGROUND:

The State legislature passed HB 2724-(The Land Bank Authority Bill) in 2015 allowing for the formation of land banks. The proposed CCLBA Business Plan will be developed by the Business & Community Services (BCS) Economic Development (ED) Division within of the County. The CCLBA's primary role will be to acquire, remediate and position Brownfield properties for future development. ED would report back in November 2018 with a completed Business Plan that would identify sources of funding and proposed staffing along with potential projects for the CCLBA. At that time, the Board could decide whether to authorize staff to initiate the process to form the Clackamas County Land Bank Authority.

Business & Community Services' Economic Development Division is seeking authorization to accept the grant award from Business Oregon Brownfield Redevelopment Fund for \$25,000 to hire a consultant to develop a business plan for a potential Clackamas County Land Bank Authority. Upon completion, staff would revisit this issue with the Board and make a recommendation regarding the Clackamas County Land Bank Authority.

County Counsel has reviewed and approved the grant agreement as to form and content.

RECOMMENDATION:

Staff recommends the Board approves Grant N18009 from Oregon Business Development Department Brownfields Redevelopment Fund.

Respectfully submitted,

Laura Zentner, Director
Business & Community Services

Recipient: Clackamas County

Project Number: N18009

CHECKLIST OF CONTRACT DOCUMENTS AND INSTRUCTIONS

Please use the following checklist to ensure that all documents have been completed, and return all contract documents as soon as feasible, but not later than 60 days.

1. **Contract** signed and dated by the authorized official. Please return signature page only.
2. **Signature Card** with certification by the authorized official. Please return the complete document.
3. **Deposit Option Notification** form. Please return the complete form. If you choose to have funds electronically deposited in a financial institution (and not the Local Government Investment Pool), please follow the provided link and send a **Direct Deposit Authorization** form (SFMS ACH-1) to the Oregon Department of Administrative Services.

Please let Brownfields Specialist Karen Homolac know how you would like to receive the final contract documents, once fully signed.

Document provided for your future use:

Disbursement Request Form. This form is provided in Excel format for you to fill out and submit to Brownfields Specialist Karen Homolac as needed once your project is underway.

Later in your project, Brownfields Specialist Karen Homolac will provide any necessary report forms.

OREGON BUSINESS DEVELOPMENT DEPARTMENT
BROWNFIELDS REDEVELOPMENT FUND
GRANT CONTRACT

Project Name: Brownfields Land Bank Authority Planning Project

Project Number: N18009

This financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Business Development Department (“OBDD”), and Clackamas County (“Recipient”) for financing of the project referred to above and described in Exhibit B (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Project Description
Exhibit C	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$50,000.

“Grant Amount” means \$25,000.

“Project Closeout Deadline” means 90 days after the earlier of the actual Project Completion Date or the Project Completion Deadline.

“Project Completion Deadline” means 24 months after the date of this Contract.

SECTION 2 - GRANT AWARD

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project specified as a grant (the “Grant”) in an aggregate amount not to exceed the Grant Amount.

Notwithstanding the above, the aggregate total of the Grant disbursed under this Contract cannot exceed the Costs of the Project.

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Grant will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Grant on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).
- B. Financing Availability. The OBDD’s obligation to make, and Recipient’s right to request, disbursements under this Contract terminates on the Project Closeout Deadline.

SECTION 4 - CONDITIONS PRECEDENT

- A. Conditions Precedent to OBDD's Obligations. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
 - (2) Such other certificates, documents, opinions and information as OBDD may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Default or Event of Default.
 - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) The OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
 - (4) The OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
 - (5) The Recipient shall demonstrate, to the satisfaction of OBDD, that it has obtained all other funds that are necessary to complete the Project.
 - (6) The Recipient has delivered documentation satisfactory to OBDD that any requested pre-award expenditures meet all programmatic eligibility requirements, including, but not limited to, the nature of the activity, when the activity took place, and cost.
 - (7) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 5 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. The Recipient shall use the Grant only for the activities described in Exhibit B and according to the budget in Exhibit C. The Recipient may not modify line items or amounts in the budget without the prior written consent of OBDD. Recipient will not use the Grant moneys to retire any debt.
- B. Costs of the Project. The Recipient shall apply the Grant to the Costs of the Project in accordance with the Act and Oregon law, as applicable. The Grant cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project.
- C. Costs Paid for by Others. The Recipient may not use any of the Grant to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded.
- B. Organization and Authority.
 - (1) The Recipient is a County, validly organized and existing under the laws of the State of Oregon.
 - (2) The Recipient has all necessary right, power and authority under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.
 - (3) This Contract has been duly executed by Recipient, and when executed by OBDD, is legal, valid and binding, and enforceable in accordance with its terms.
- C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract is true and accurate in all respects.
- D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.
- E. No Defaults.
 - (1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.
 - (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.
- F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement or other instrument to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.
- G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract for the financing and undertaking and completion of the Project.

SECTION 7 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to perform all obligations required by this Contract.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract, and the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
 - (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) State labor standards and wage rates found in ORS chapter 279C.These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.
- C. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty.
- D. Regulatory Oversight. The Recipient shall comply with regulatory oversight through the appropriate Oregon Department of Environmental Quality Program.
- E. Notifications. The Recipient shall reasonably acknowledge in some public fashion, such as in promotional materials, on its web site and in public statements, that the Project was funded in part with Oregon State Lottery Funds administered by the Oregon Business Development Department.
- F. Project Completion Obligations. The Recipient shall:
 - (1) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
 - (2) Within thirty (30) days after completion of the Project, but no later than the Project Closeout Deadline, provide OBDD with a final project completion report on a form provided by OBDD.
- G. Financial Records. The Recipient shall keep accurate books and records and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- H. Inspections; Information. The Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require.
- I. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Grant for a minimum of three years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- J. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact

of the Project, from the date of this Contract until six years after the Project Completion Date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.

- K. Certified Firms. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans owned and emerging small businesses...” The OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.
- L. Notice of Default. The Recipient shall give OBDD prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.
- M. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys’ fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

SECTION 8 - DEFAULTS

Any of the following constitutes an “Event of Default”:

- A. Any false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant or the Project.
- B. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsection A of this section 8, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 9 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:
 - (1) Terminating OBDD’s commitment and obligation to make the Grant or disbursements under the Contract.
 - (2) Barring Recipient from applying for future awards.
 - (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract; however, this provision is not to be construed in a way that Recipient’s obligations would constitute debt that violates Section 10, Article XI of the Oregon Constitution.
 - (4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.

- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 9.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, as applicable, to repay any Grant proceeds owed; then, to pay other amounts due and payable under this Contract, if any.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 8 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 10 - MISCELLANEOUS

- A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
 - (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
 - (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
 - (4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract, nor does assignment relieve Recipient of any of its duties or obligations under this Contract.
 - (5) Recipient hereby approves and consents to any assignment, sale or transfer of this Contract that OBDD deems to be necessary.
- C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:
 - (1) The OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
 - (2) In no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

D. Notices. All notices to be given under this Contract must be in writing and addressed as shown below, or to other addresses that either party may hereafter indicate pursuant to this section. Notices may only be delivered by personal delivery or mailed, postage prepaid. Any such notice is effective five calendar days after mailing, or upon actual delivery if personally delivered.

If to OBDD: Assistant Director, Economic Development
Oregon Business Development Department
775 Summer Street NE Suite 200
Salem OR 97301-1280

If to Recipient: Chair, Board of County Commissioners
Clackamas County
2051 Kaen Rd
Oregon City OR 97045-4035

E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.

G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.

H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys.

I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

J. Integration. This Contract (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Oregon Business Development Department



CLACKAMAS COUNTY

By: _____
Chris Cummings, Assistant Director
Economic Development

By: _____
Jim Bernard, Chair
Board of County Commissioners

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Not Required per OAR 137-045-0030

Exhibit A: General Definitions
Exhibit B: Project Description
Exhibit C: Project Budget

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285A.185 through 285A.188, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 12 April 2018.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Grant under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Default” means an event which, with notice or lapse of time or both, would become an Event of Default.

“ORS” means the Oregon Revised Statutes.

“Project Completion Date” means the date on which Recipient completes the Project.

EXHIBIT B - PROJECT DESCRIPTION

Recipient shall complete a 5-year business plan that clearly outlays the following:

1. The necessary start-up activities, costs and seed funding needed to set up a countywide Brownfields Land Bank Authority as embodied in Oregon Law 2015, Chapter 631;
2. Identifies a start-up pilot project;
3. Develops an inventory of future projects, timing and capacity to fund these projects moving forward within the first five years of operation.

Recipient shall provide the Department with a copy of the completed business plan.

EXHIBIT C - PROJECT BUDGET

	OBDD Funds	Other / Matching Funds
Activity	Approved Budget	Approved Budget
Brownfields Land Bank Authority Business Plan	\$25,000	\$25,000
Total	\$25,000	\$25,000

DEPOSIT OPTION NOTIFICATION

Complete and return this form to

Oregon Business Development Department
775 SUMMER ST NE STE 200 SALEM OR 97301-1280

Recipient

Federal Tax ID Number

Project Name

Project Number

I (we), the undersigned do hereby authorize the Oregon Business Development Department to: (Choose Method I or II below)

Method I - Electronic Funds Transfer (EFT)

Private Sector or Government Entities

Use New EFT Account: A Direct Deposit Form (SFMS ACH-1) completed by Financial Institution Representative has been forwarded to the Oregon Department of Administrative Services authorizing the Oregon State Treasury to deposit funds into the designated financial account by way of the Automated Clearing House Services (ACH) of the Federal Reserve Banking System.

Requires an SFMS ACH-1 form to be marked CONFIDENTIAL and mailed to:

*Oregon Department of Administrative Services
SFMS Operations / ACH Coordinator
155 COTTAGE ST NE STE U60
SALEM OR 97301-3970*

Get the form here: www.oregon.gov/das/Financial/AcctgSys/Documents/ACH_Enrollment_Form.pdf

Use Existing EFT Account: An account has already been set up for EFT deposits as required above.

Method II - Local Government Investment Pool (LGIP)

Government Entities Only

Transfer funds to the **Oregon State Treasury Local Government Investment Pool** by electronic or other means.

The Oregon State Treasury is authorized to accept and deposit said funds into Local Government Investment Pool Account Number _____.

This authorization will override any previous authorization and will remain in effect until the Oregon Business Development Department has received written notification of its termination.

Type or Print Name(s) _____

Signature(s) _____

Title(s) _____

Date

Telephone Number

Fax Number



BUSINESS & COMMUNITY SERVICES

150 BEAVERCREEK ROAD

OREGON CITY, OR 97045

WWW.CLACKAMAS.US/BCS

LAURA ZENTNER, DIRECTOR

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

A Board Order Approving a Tax Foreclosed Property for Declaration as Surplus

Purpose/Outcomes	Return the tax foreclosed parcel to the tax rolls
Dollar Amount and Fiscal Impact	Dollar amount varies depending on sale results.
Funding Source	N/A
Duration	Management and disbursement of tax foreclosed and surplus properties are ongoing.
Previous Board Action	A Study Session with the Board of County Commissioners was held on September 18, 2018 to discuss this parcel. The Board approved the parcel to be declared as surplus for sale or distribution.
Strategic Plan Alignment	1. Management of Tax Foreclosed properties. 2. Build public trust through good government.
Contact Person	Rick Gruen, Property Disposition Manager 503.742.4345

BACKGROUND: Clackamas County's Department of Assessment and Taxation annually forecloses on tax-delinquent properties. The foreclosure process is a six year process – taxes must be delinquent for three years, then a two year judgment is filed and in the sixth year foreclosure occurs and the property is deeded to the County in lieu of uncollected taxes. Following the recording of the deed in the county's name, the management and disposition is then transferred to the Department of Business & Community Services (BCS) Property Disposition Division. BCS - Property Disposition Division is tasked with managing, administering and dispersing of tax foreclosed real property assets in a cost effective manner that will provide a county public benefit. No General Fund resources are allocated to this program.

RECOMMENDATION: Staff recommends the Board of County Commissioners approve the list of tax foreclosed property for declaration as surplus. Minimum bid amount will be based on the outcome of the pending appraisal.

Respectfully submitted,

Laura Zentner, Director
Business & Community Services

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Sale of Real Property acquired by Clackamas County by tax deed, gift or purchase.



Board Order No. _____

Page 1 of 2

This matter coming before the Board of County Commissioners at this time, and it appearing to the Board that the real property parcels listed below, having been acquired by Clackamas County by tax deed, gift or purchase, are not currently in use for County purposes; and

IT FURTHER APPEARING a list of the proposed auction properties was circulated and reviewed by County Department Heads and other governmental agencies within Clackamas County and are therefore presumed surplus.

IT FURTHER APPEARING to the Board that the following properties should be offered for public sale for not less than the minimum price specified herein and in compliance with applicable portions of ORS Chapter 275.110;

NOW, THEREFORE, the Board finds that the real property parcels listed below are surplus, and selling them is in the best interest of the citizens of Clackamas County.

IT IS HEREBY ORDERED that the following properties shall be offered for sale for not less than the minimum price specified herein and in compliance with the applicable portions of ORS Chapter 275.110.

Parcels may be encumbered with restrictions, easements, conditions and covenants.

Clackamas County Surplus Real Estate
Public Oral Auction Development Services
Building

**Auditorium
150 Beaver Creek Rd.,
Oregon City, OR 97045
Date: November 14, 2018**

REGISTRATION begins at 9:00 a.m. / AUCTION begins at 10:00 a.m.

***** Auction will be conducted in English and in U.S. currency only *****

Description	Assessed Real Market Value \$	Minimum Bid \$	Deposit Amount- 20% of the Minimum Bid
31E07B 00901 Improved Parcel- 6151 SW Briar Patch Road Wilsonville, OR 97070 Approximately 5.00 acres	\$861,369	TBD	TBD

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Sale of Real
Property acquired by
Clackamas County by tax deed,
gift or purchase.



Board Order No. _____

Page 2 of 2

IT IS FURTHER ORDERED that the Sheriff of Clackamas County, Oregon be and is hereby directed and authorized to sell the above described properties in the manner provided by law and for not less than the minimum price herein determined; and

IT IS FURTHER ORDERED that the Sheriff of Clackamas County, Oregon is hereby directed to advertise the sale of the above described property in a newspaper of general circulation, circulated and published in Clackamas County, once a week for four consecutive weeks prior to such sale. Such notice shall include the date, time and place of sale, the description of the properties or interests therein to be sold, the market value of the properties or interests as determined by a certified appraiser or the Clackamas County Department of Taxation and Assessment, the minimum price as fixed by the Board at the date of this order. The Sheriff shall further make a proof of publication of such notice in the same manner as proof of publication of summons is made and shall file such proof of publication with the county clerk. Copies of all Sheriff Sale documents shall be forwarded to the Property Resources section upon sale completion; and

IT IS FURTHER ORDERED that the Director or Deputy Director of Business and Community Services, is hereby authorized to act as representative of the Board of County Commissioners in the acceptance and execution of all documents necessary for the sales; and that the Director of Finance for Clackamas County is hereby authorized to execute all necessary documentation for the fulfillment of any contracts of sale associated with these sales at the time of fulfillment, as representative for the Board of County Commissioners.

DATED this 27th day of September, 2018

BOARD OF COUNTY COMMISSIONER

Chair

Recording Secretary



September 27, 2018

Board of County Commissioners
Clackamas County
Board of North Clackamas Parks and Recreation District

Members of the Board:

Approval of an Intergovernmental Agreement with Oak Lodge Water Services District (OLWSD) for the Boardman Wetland Project

Purpose/Outcomes	Allows NCPRD to form an agreement with OLWSD to partner on the development of the Boardman Wetland project. This Project will build a nature play area in the Jennings Lodge area, an underserved area within the District.
Dollar Amount and Fiscal Impact	NCPRD proposes to allocate approximately \$560,000 in SDC funds and \$385,000 in grant funds from Oregon State Parks.
Funding Source	Zone 2 System Development Charges (SDCs)
Duration	2 years from date of execution.
Previous Board Action	<ul style="list-style-type: none"> • <i>2/15/2018 NCPRD Board Meeting:</i> Approval of Resolution 2018-15 authorizing NCPRD to apply for grant funds to develop a nature play area at the site • <i>3/29/18 BCC Business Meeting:</i> Approval of Purchase and Sale Agreement with OLWSD for the Boardman Wetland Park site. • <i>9/6/18 BCC Business Meeting:</i> Approval of Assignment of IGA for Metro Nature in Neighborhoods grant from OLWSD to NCPRD.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government • Build a strong infrastructure • Ensure safe, healthy and secure communities
Contact Person	Scott Archer, NCPRD Director, 503-742-4421 Tonia Williamson, Natural Areas Coordinator, 503-742-4357

BACKGROUND:

North Clackamas Parks and Recreation District (NCPRD) is partnering with Oak Lodge Water Services District (OLWSD) on the development of the Boardman Wetland Project (Project). The Project is a new, nearly 6-acre site located between Boardman and Jennings Avenues. This project will bring a developed natural area including a boardwalk and nature play area to an underserved area of our District.

In March 2018, the Board approved the Purchase and Sale Agreement for the Boardman Wetland Project site. At that time, staff promised to return with a comprehensive Intergovernmental Agreement (IGA) that defined each partners' roles and responsibilities in regards to the Boardman Wetland Project. The IGA (Agreement) was written and negotiated by County Counsel and legal counsel for OLWSD.

Concurrently, NCPRD and OLWSD are transferring the ownership of the Boardman Wetland property from OLWSD to NCPRD pursuant to the terms in the Purchase and Sale Agreement. The Project has secured two grant awards, one from Metro's Nature in Neighborhoods program as well as one from the Oregon Parks and Recreation Department's Local Government Grant program. This Agreement allows the project to continue progress toward completion, with roles and responsibilities of both parties agreed upon.

County Counsel has reviewed the Agreement and is assisting NCPRD with the land transfer of the site from OLWSD to NCPRD ownership.

RECOMMENDATION:

Staff recommend the Board approve this Intergovernmental Agreement between North Clackamas Parks and Recreation District (NCPRD) and Oak Lodge Water Services District (OLWSD) and delegate authority to the BCS Director, Deputy Director or Designee to sign all documents necessary to effectuate the same.

ATTACHMENT:

Intergovernmental Agreement between North Clackamas Parks and Recreation District and Oak Lodge Water Services District for the Boardman Wetland Project

Respectfully submitted,

Scott Archer, Director
North Clackamas Parks and Recreation District

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into AS OF THE LAST DATE OF THE SIGNATURES INDICATED BELOW (the "Effective Date"), by and between Oak Lodge Water Services District ("OLWSD"), a consolidated sanitary and water district formed pursuant to ORS Chapters 264, 450, and 198, located at 14496 SE River Road, Oak Grove, Oregon 97267 and North Clackamas Parks and Recreation District ("NCPRD"), a county service district formed pursuant to ORS Chapter 451, located at 150 Beaver Creek Road, Oregon City, Oregon 97045.

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform; and

WHEREAS, this Agreement establishes an agreement between NCPRD and OLWSD to partner on the development of the Boardman Wetland Complex in the vicinity of 17908 SE Addie St. in the Jennings Lodge area of Clackamas County ("the Property"), see Exhibit A; and

WHEREAS, OLWSD is the current owner and manager of approximately 5.8 acres within the Property, and is in the process of selling the Property to NCPRD following the Purchase and Sale Agreement, see Exhibit B; and

WHEREAS, OLWSD is the current lead for the planning, design, permitting, and implementation of a project including a sewer lines replacement, educational area, boardwalk, natural area restoration, parking lot, wetland and nature play, known as the Boardman Wetland Project ("the Project"), see Exhibit C; and

WHEREAS, OLWSD has been awarded and is managing the Metro Nature in Neighborhoods (NIN) grant helping fund a portion of the Project; and

WHEREAS, NCPRD has been participating as a Project partner and as a member of the OLWSD Boardman Wetland Complex Project Stakeholder Group led by OLWSD and contributing comments and review of the Project and designs; and

WHEREAS, NCPRD submitted a Local Government Grant application to fund the nature play elements of the project to Oregon Parks and Recreation Department (OPRD); and

WHEREAS, following the Purchase and Sale Agreement, if NCPRD is not awarded the OPRD grant and NCPRD does not have an alternate funding source to construct the nature play area portion of the project, NCPRD will notify OLWSD of such circumstances, and Boardman A will be conveyed back to OLWSD; and

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. **Term.** This Agreement shall be effective upon the date of execution of the last party to sign and shall expire upon the earlier occurrence of either: the expiration of the construction contract warranty period referenced in this Agreement, or upon early termination described under Section 6 of this Agreement.

2. **Obligation of OLWSD.**

- A. OLWSD agrees to continue to manage the Project through construction and the construction warranty period with NCPRD as Project partner. OLWSD agrees to list NCPRD as additionally insured on the construction contract insurance documents.
- B. OLWSD agrees to partner with NCPRD to complete the permits and designs for the proposed Project (not including final permits and designs for the nature play). OLWSD will allow NCPRD to review Project designs and the two agencies will agree upon final designs (excluding the sewer line repair of which OLWSD will finalize independently) and/or change orders, submittals that do not match the final design set. These Project designs will meet NCPRD sustainable design Best Management Practices (BMP) with the goal of decreasing long term maintenance costs.
- C. OLWSD agrees to lead the implementation of the Project including the nature play area if the OPRD Grant is awarded to NCPRD.
- D. OLWSD will provide support, including Project construction invoices to NCPRD if the OPRD Grant is awarded so that NCPRD can complete grant reports and reimbursement requests to OPRD.
- E. If the OPRD grant for the nature play area is not awarded to NCPRD, OLWSD will give NCPRD 90 days to identify an alternate funding source to construct the nature play area, and if NCPRD is unable to do so, NCPRD will immediately convey Boardman A back to OLWSD and NCPRD will reimburse OLWSD for the actual costs OLWSD incurred for the nature play area planning and design consultant fees within 60 days. OLWSD shall be under no obligation to continue work on the nature play area during the 90-day period that an alternative funding source is sought. If NCPRD requests in writing for OLWSD to continue work on the nature play area during this 90-day period, then NCPRD shall additionally reimburse OLWSD for all costs incurred during those 90-days. The remaining Boardman B property will be sold to NCPRD for public access and recreational purposes. If the OPRD grant is awarded, OLWSD agrees to work with NCPRD to sell Boardman A and Boardman B as outlined in the Purchase and Sale agreement and within this Agreement.
- F. OLWSD will work with Metro and NCPRD to transfer the Project Metro NIN grant agreement to NCPRD.
- G. OLWSD will provide support, including project construction invoices to NCPRD for the Metro NIN Grant so that NCPRD can complete grant reports and reimbursement requests to Metro.
- H. At either OLWSD or NCPRD's request, the other party shall provide the requesting party with paper or an electronic version of all documents, engineering designs, warranties, and other materials directly related to the Project that have been produced or recorded. The Parties are not obligated to produce materials in electronic media if the materials do not already exist in electronic media.
- I. OLWSD will continue to be responsible for all man-made storm and sewer conveyance systems located on the Boardman Wetland Site and shall be allowed reasonable access to such storm and sewer conveyance systems in perpetuity, with appropriate easements. All other new capital investments developed during the Project will be transferred to NCPRD.

3. **Obligation of NCPRD.**

- A. NCPRD agrees to purchase and receive the Boardman Wetland site from OLWSD as outlined in the Purchase and Sale Agreement.
- B. NCPRD agrees to review Project designs and the two agencies will agree upon final designs (excluding the sewer line repair of which OLWSD will finalize independently) and/or change orders, submittals that do not match the final design set. These Project designs will meet NCPRD sustainable design BMP's with the goal of decreasing long term maintenance costs.
- C. NCPRD submitted a Local Government Grant proposal for the Project to OPRD. If awarded, NCPRD agrees to manage the grant and comply with all grant agreement requirements.
- D. If OPRD does not award the grant for the Project, NCPRD will provide immediate notice to OLWSD. NCPRD will make a good faith effort to determine other available revenue sources to fund its purchase of the Boardman A site and fund the design and construction costs.
- E. If NCPRD cannot determine sufficient revenue sources within 90 days of learning that the OPRD grant application was denied funding of the nature play area portion of the Project, NCPRD will notify OLWSD of such circumstances and will convey Boardman A back to OLWSD. NCPRD will reimburse OLWSD for the costs OLWSD incurred for the nature play area planning and design. OLWSD shall be under no obligation to continue work on the nature play area during the 90-day period that an alternative funding source is sought. If NCPRD requests in writing for OLWSD to continue work on the nature play area during this 90-day period, then NCPRD shall additionally reimburse OLWSD for all costs incurred during those 90-days. If the OPRD grant is awarded, OLWSD agrees to sell Boardman A and Boardman B as outlined in the Purchase and Sale Agreement.
- F. NCPRD agrees to take necessary actions with OLWSD and Metro to transfer the Metro Nature in Neighborhoods grant agreement to NCPRD. NCPRD agrees to manage the grant and comply with all grant requirements.
- G. NCPRD agrees to reimburse OLWSD for the nature play area portion of construction invoices described in Section 5(B) of this Agreement. The Parties anticipate that the funding for reimbursement will come from ORPD, Metro, and NCPRD System Development Charges. NCPRD agrees to reimburse OLWSD within sixty (60) days of receipt of invoice.
- H. NCPRD shall be listed as additionally insured on the construction contract insurance documents.
- I. NCPRD shall begin management of the site including maintaining, securing, and operating the Property upon project close-out. For those elements subject to the construction contract warranty, OLWSD will cooperate with NCPRD to address any warranty claims or issues during the warranty period. NCPRD will become responsible for all new capital investments developed during the Project upon project close-out.

4. **Contacts**

A. NCPRD

Scott Archer
NCPRD Director
150 Beavercreek Road
Oregon City, OR 97045
503-742-4421
sarcher@NCPRD.com

B. OLWSD

Sarah Jo Chaplen
General Manager
14496 SE River Road
Oak Grove, Oregon 97267
503-353-4200
sarahjo@olwsd.org

5. **Work Plan and Scheduling of Work.**

- A. OLWSD will manage the Project and intends to complete the Work by May 2019. NCPRD acknowledges that said schedule is dependent on many conditions and may be subject to change. OLWSD will discuss any changes in the schedule with NCPRD prior to amending the construction contract.
- B. Nothing herein shall prevent the parties from meeting to mutually discuss the Project. Each party shall use best efforts to coordinate with the other to minimize conflicts. Costs of the construction elements focused on the nature play area are estimated to be \$845,000. No adjustment shall be made which obligates NCPRD to fund the Project or the costs of the portion of the construction elements focused on the nature play area, parking, etc., in excess of \$845,000 plus the remaining Metro grant funding (\$301,509 as of September 2018). NCPRD acknowledges that the final cost is dependent on many conditions and may be subject to change (e.g. increased construction costs due to unforeseen circumstances). OLWSD will provide prompt notice to NCPRD of any changes in the cost so that NCPRD can determine a source of contingency funding. NCPRD intends to use various funding sources to reimburse OLWSD, including OPRD and Metro grant funding and NCPRD SDC's.
- C. Any proposed change to designs or specifications must be approved by both Parties, including change orders, extensions, or changes to unit prices that affect Project costs following the execution of the Project.

6. Early Termination of Agreement

A. NCPRD and OLWSD, by mutual written agreement, may terminate this Agreement at any time.

B. Either NCPRD or OLWSD may terminate this Agreement in the event of a breach of the Agreement by the other party. Prior to such termination, however, the party seeking the termination shall give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not cured the breach to the reasonable satisfaction of the nonbreaching party within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination.

7. **Indemnification.** Each party ("the Indemnifying Party") agrees to indemnify, save harmless, and defend the other ("the Indemnified Party"), its officers, commissioners, agents, volunteers, and employees from and against all costs, losses, damages, claims, or actions and all expenses incidental to the investigation and defense thereof (excluding legal and other professional fees and expenses) arising out of or based upon damages or injuries to persons or property, including death, to the extent that such liabilities result from the negligent or willful acts of the Indemnifying Party or the Indemnifying Party's officers, owners, employees, agents, volunteers, subcontractors, or anyone over which the Indemnifying Party has a right to control. The Indemnified Party shall give prompt notice of any such claim and the Indemnifying Party shall have the right to control and direct the investigation, preparation, action, and settlement of each claim. This indemnification provision shall not apply to either party's liability to its employees under applicable Worker's Compensation laws or be deemed a waiver of any defense to which either party may be entitled under applicable Worker's Compensation laws.

8. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof. Venue for any claim or legal action arising out of, or in connection with, this Agreement or the project work shall be in the Clackamas County Circuit Court.

9. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal, or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

10. **Integration.** This Agreement contains the entire agreement between NCPRD and OLWSD and supersedes all prior written or oral discussions or agreements between the parties with respect to the subject matter of this Agreement.

11. **Amendments.** NCPRD and OLWSD may amend this Agreement at any time only by written amendment signed by both parties.

12. **Waiver.** NCPRD and OLWSD shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

IN WITNESS HEREOF, the parties have executed this Agreement by the date set forth opposite their names below.

**North Clackamas Parks and Recreation
District**

Chair

Date

Oak Lodge Water Services District

Nancy Hill

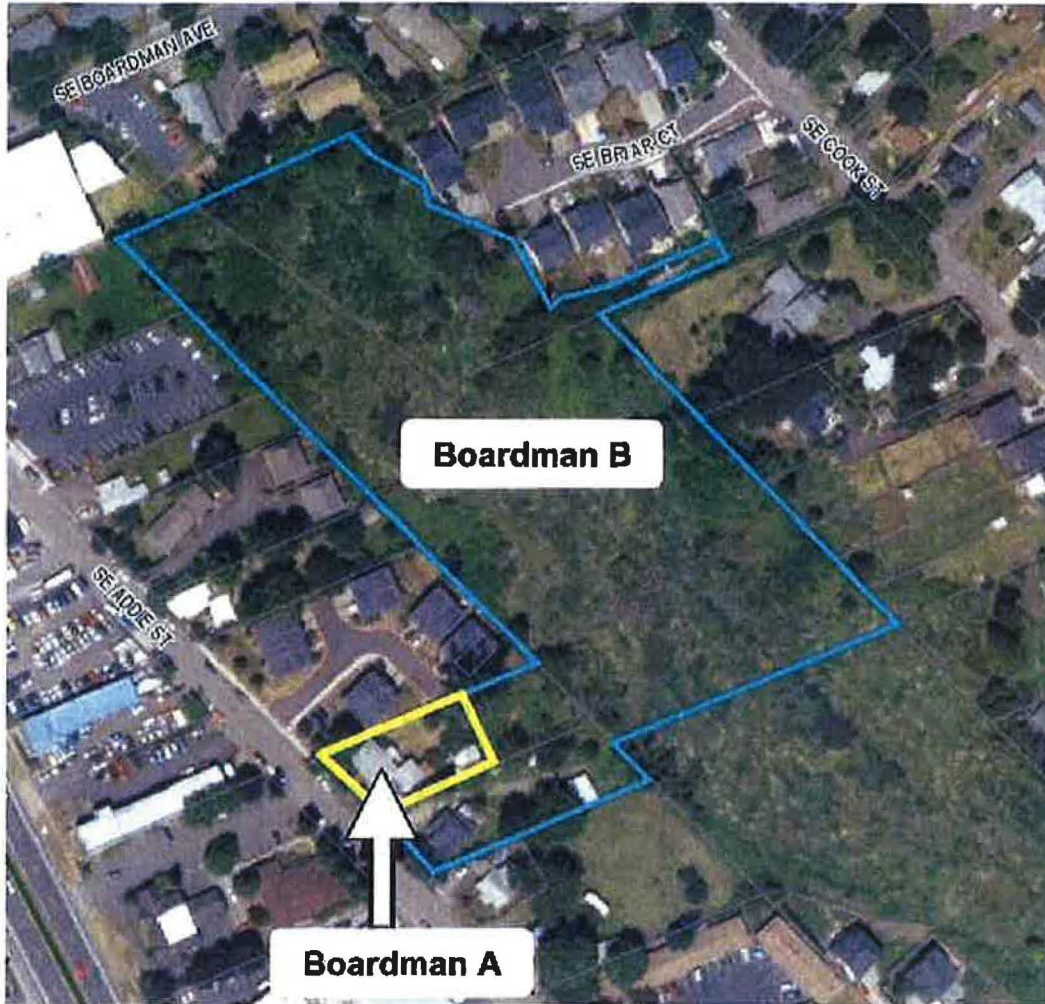
Chair

9/18/18

Date

Exhibit A
Boardman Wetland Project Boundary

Boardman A and Boardman B Property Descriptions



Property Details – Boardman A

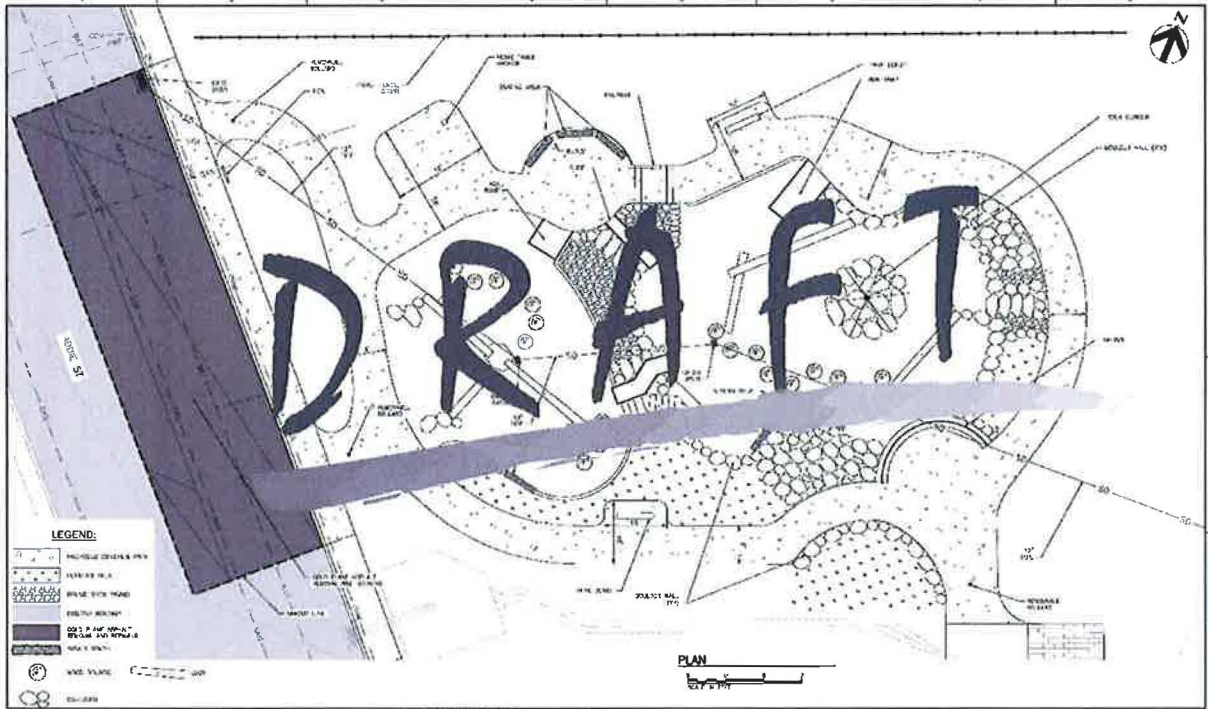
Location: 17900 SE Addie ST
Site Size: 0.25 acres
NCPRD: Inside NCPRD District-SDC Zone 2
Current Owner: Oak Lodge Water Services District
Taxlots ½ of taxlot 22E18CA04200,

Property Details – Boardman B

Location: 17908 & 17900 SE Addie ST
Site Size: 5.55 acres
NCPRD: Inside NCPRD District-SDC Zone 2
Current Owner: Oak Lodge Water Services District
Taxlots ½ of taxlot 22E18CA04200,
22E18CA04300, 22E18CA04101,
22E18CA02716

Exhibit B
Purchase and Sale Agreement – Boardman Wetland Natural Area

Exhibit C Boardman Wetland Project Designs



PROJECT NUMBER	01-10-10
DATE	01/10/10
PROJECT NAME	BOARDMAN WETLAND



Boardman Wetland Complex
NATURE PLAY AREA LAYOUT
SCALE: 1" = 10'
SHEET: BA02

Exhibit A
Boardman Project 90% Designs

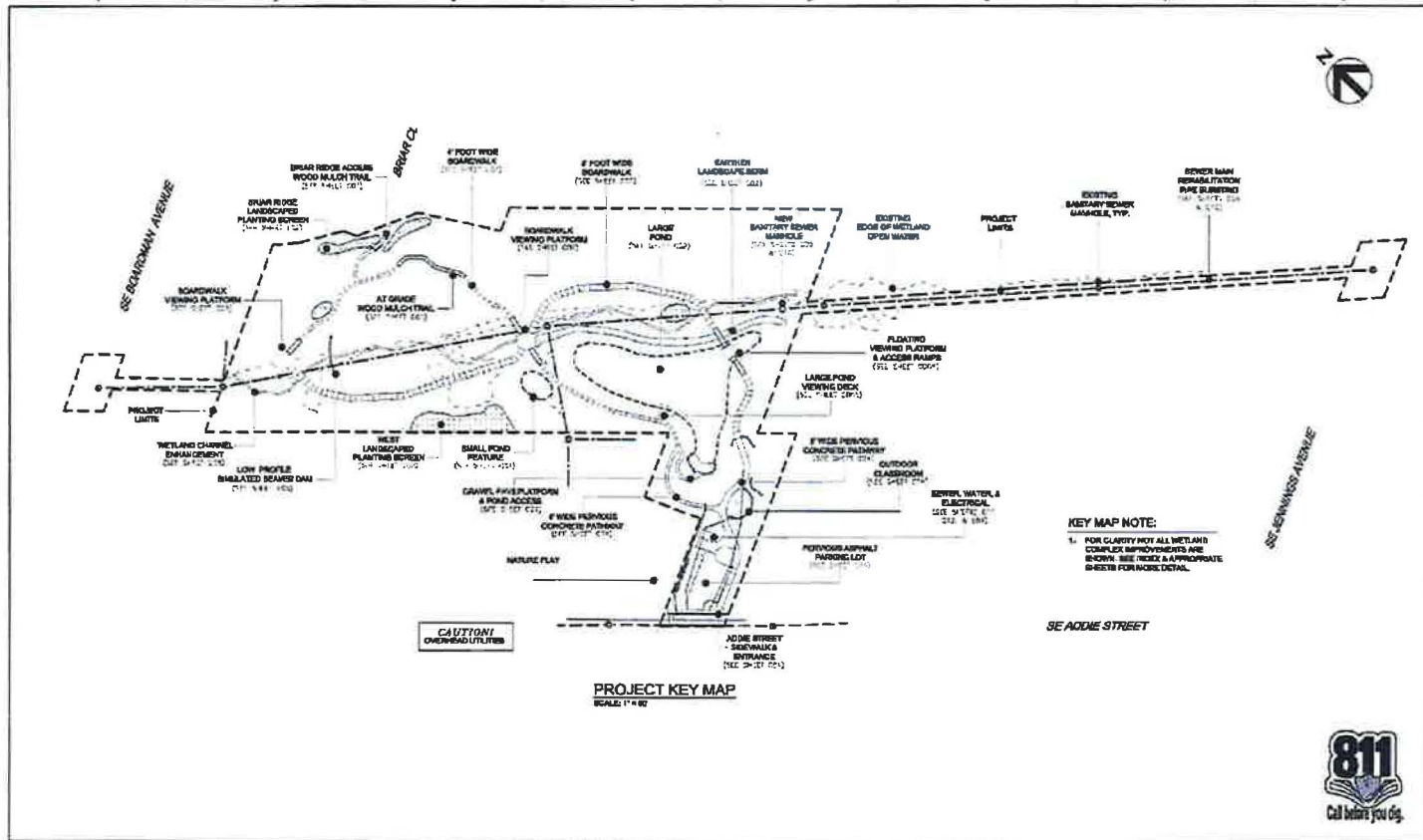


Exhibit C Con't
Boardman Wetland Project Designs



DATE	DESCRIPTION	PROJECT MANAGER	DESIGNED BY	CHECKED BY	PROJECT NUMBER	TITLE

90%
Not For Construction



Boardman Wetland Complex

PROJECT KEY MAP

OF PLANS | QUANTITIES | SPECIFICATIONS | INDEX

SHEET
G02



Gregory L. Geist
Director

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between
The City of Happy Valley and Water Environment Services for:
Establishment and Administration of Reimbursement Districts

Purpose/Outcome	Approval of an intergovernmental agreement to allow for the establishment and administration of sewer reimbursement districts within WES' service area in the City of Happy Valley.
Dollar Amount and Fiscal Impact	WES agrees to not impose a Collection Sewer Charge on properties that connect to sewer infrastructure with established reimbursement districts in Happy Valley. The impact of this foregone revenue will depend on whether or not properties connect to sewers with established reimbursement districts. WES collected an average of \$325,000 annually in Collection Sewer Charge revenue over last three fiscal years, so the estimated impact will be a portion of that annual revenue.
Funding Source	WES Sanitary Operating Fund.
Duration	The IGA will terminate upon the date a revised set of WES Rules establishing procedures for forming reimbursement districts and reimbursement costs go into effect – estimated June 2019.
Previous Board Action/Review	Discussed at County Administrator Issues/Updates on September 4, 2018
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This supports the WES Strategic Plan that customers will continue to benefit from a well-managed utility. 2. This project supports the County Strategic Plan to build public trust through good government.
Contact Person	Ron Wierenga, WES Environmental Services Manager, 503-742-4581 Chris Storey, WES Assistant Director, 503-742-4543.

BACKGROUND:

WES approves sanitary and storm sewer system plans for development projects within WES' boundaries that are within the City of Happy Valley ("City"). Due to the nature of sewer infrastructure, there are times when a development project requires extension of sewer lines beyond the immediate area required for the development, and properties not owned by those developers receive the benefit of an existing sewer line. Developers with projects in the City have asked for the ability to establish reimbursement districts to recover some of the cost of extending sewer that benefits nearby properties, as well as the property for which it was intended.

The City of Happy Valley Municipal Code (“HVMC”) provides a mechanism to establish reimbursement districts, under HVMC Chapter 3.08, for the developing party to share the project costs with other benefitted parties. The cost sharing does not happen immediately; a reimbursement district must be formed, and properties only become subject to the charge if they connect to the infrastructure. Currently, the HVMC authorizes the establishment of reimbursement districts for sewer improvement; however, the WES Rules and Regulations (“Rules”) do not. WES is currently in the process of revising and updating its Rules that, pending Board approval, will include appropriate language for the establishment and administration of reimbursement districts within the WES service area. The projected completion of these Rules is June 2019.

Because there are parties within the City that are interested in the creation of a reimbursement district before the updated WES Rules are to be completed, the City and WES desire to cooperate to implement any reimbursement districts for sanitary sewer and stormwater improvements per HVMC Chapter 3.08 until WES Rules have been amended to allow the creations of such districts. The attached proposed IGA lays out the responsibilities of the City and WES to create and administer reimbursement districts in the interim.

The IGA allows the city to establish reimbursement districts for WES-owned sewer infrastructure with the caveats that 1) the City process will end when WES adopts new rules that allow for WES reimbursement districts, and 2) the subject development has to comport with WES rules and not be unfair to the future property connections. WES also agrees not impose a Collection Sewer Charge on properties that connect to sewer infrastructure with established reimbursement districts in the City. The impact of this foregone revenue will depend on the formation of reimbursement districts and also on whether or not properties connect. WES collected an average of \$325,000 annually in Collection Sewer Charge revenue over last three fiscal years. The estimated impact is a portion of that annual revenue.

The Happy Valley City Council discussed the issue at a work session on August 21, 2018, and approved Resolution 18-50 on September 18, 2018 authorizing the city manager to sign the IGA between the City and WES in regard to future reimbursement districts. The City also approved Ordinance No. 540 amending HVMC Chapter 3.08 to authorize formation of reimbursement districts for public improvements that are the sole property of a service district and not the City.

RECOMMENDATION:

Staff respectfully recommends approval that the Board of County Commissioners, acting as the governing body of Water Environment Services, approve the intergovernmental agreement between the City of Happy Valley and Water Environment Services for Establishment and Administration of Reimbursement Districts, and delegate authority to the Director of Water Environment Services to execute the agreement.

Sincerely,



Greg Geist
Director, Water Environment Services

INTERGOVERNMENTAL AGREEMENT

Between Water Environment Services and the City of Happy Valley, Oregon

This intergovernmental agreement (“Agreement”) is entered into as of the ____ day of _____, 2018 by and between Water Environment Services (“WES”), a municipal partnership organized pursuant to the laws of the State of Oregon, and the City of Happy Valley, Oregon, an Oregon municipal corporation (“City”). This Agreement is authorized pursuant to ORS 190.110 and becomes effective upon full execution by the parties.

RECITALS

Whereas, the City has previously approved several residential subdivisions, planned unit developments and other residential development applications, and anticipates approving additional residential development applications in the future (collectively, the “Decisions”); and

Whereas, the Decisions typically require the installation of sanitary and stormwater sewer lines (“Sewer Improvements”) to serve the developments as well as other adjacent or nearby properties when those properties develop or when existing on-site sanitary disposal systems are replaced; and

Whereas, developers desire to establish reimbursement districts under Happy Valley Municipal Code Chapter 3.08, “Reimbursement Districts” (the “HVMC”) to recover a portion of the cost of the Sewer Improvements; and

Whereas, WES approves sanitary and storm sewer system plans for development projects within WES’s service area including areas in the City; and

Whereas, the City of Happy Valley Municipal Code (“HVMC”) authorizes the establishment of reimbursement districts for Sewer Improvements; and

Whereas, WES Rules and Regulations do not currently authorize the establishment of reimbursement districts; and

Whereas, the City and WES desire to cooperate to implement any reimbursement districts for Sewer Improvements per HVMC 3.08 until WES Rules have been amended to allow the creations of such districts; and

Whereas, this Agreement is intended to facilitate cooperation between the City and WES in the administration of Reimbursement Districts pursuant to the City code. during the period when no WES reimbursement district option is available.

NOW THEREFORE, WES and the City agree as follows:

1. Responsibilities of City.

- a) The City shall give written notice to WES when the City receives an application requesting formation of a reimbursement district for Sewer Improvements.
- b) The City shall provide WES with a copy of the City Council resolution that approves the formation of reimbursement district for Sewer Improvements, including a copy of the City Engineer's Report, and the Reimbursement Agreement. The City will also provide Geographic System Data for reimbursement district boundaries, if available.
- c) The City will provide to WES a pamphlet, brochure, or equivalent communication describing City-approved reimbursement districts, fees, and instructions for payment of fees that WES may provide to its customers.
- d) The City will collect reimbursement district payments and fees per the provisions of Chapter 3.08 of the HVMC and distribute to the applicable parties as required thereunder. agrees that upon WES adopting an ordinance or rule giving it the ability to establish reimbursement districts within the WES service area, City will not establish a City reimbursement district but rather will direct applications for a reimbursement district to WES. However, an application deemed complete (defined below) by the City at any time prior to the effective date of the WES ordinance shall be implemented under the HVMC and the terms of this Agreement.
- e) The City agrees that at such as WES amends its Rules and Regulations to authorize the establishment of reimbursement districts for Sewer Improvements with the WES service area, City will not establish a City reimbursement district for the same improvements but rather will direct applications for the reimbursement district to WES. However, as application approved by the City and WES prior to the effective date of the WES ordinance shall be implemented under this Agreement. WES shall provide the City with written notice of a final decision by WES amending its Rules and Regulations to authorize the formation of reimbursement districts.
- f) Throughout the course of this Agreement, an application for a reimbursement district shall be deemed "complete" by the City upon 1) the completion of the City Engineer's report, as outlined in HVMC Section 3.08.030, and 2) upon the confirmation by and from WES that the application meets the following requirements:
 - i) The project proposed in the application complies with all applicable WES Rules & Regulations;
 - ii) The City Engineer's analysis of whether the estimated cost of the public improvements, level of reimbursement, applicable interest rate, and the estimated advance financed reimbursement due from each property owner are reasonable; and
 - iii) The interest rate applicable to assessments financed over time is no greater than the current Consumer Price Index ("CPI") rate as of the date of the application submitted to

the City. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

2. Responsibilities of WES.

- a) WES agrees to notify applicants for sewer service that their property is in a reimbursement district and subject to a reimbursement fee, and to hand out information provided by the City.
- b) If the applicable sanitary sewer infrastructure meets WES service requirements, WES agrees not to collect a Collection Sewer Charge, as described under District Rules and Regulations (Chapter 4, Section 4.4.1), for properties subject to a HVMC reimbursement district for sanitary sewer within the boundaries of the City.

3. **Indemnification.** Subject to the Oregon Tort Claims Act and the Oregon Constitution, each party agrees to indemnify, defend and hold harmless the other party, its officers, elected officials, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable solely and exclusively to their own acts or omissions, including their officers, agents and employees, in performance of this Agreement.

4. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

5. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

6. **Integration.** This Agreement contains the entire agreement between WES and the City regarding the City's formation and administration of sanitary sewer reimbursement districts within the boundaries of the City and supersedes all prior written or oral discussions or agreements regarding that subject.

7. **Amendments.** The WES and City may amend this Agreement at any time only by written amendment executed by the District and City.

8. Term of Agreement; Termination.

- A. Term. This Agreement shall continue in effect unless modified to include a shorter term or unless terminated as provided herein. If this Agreement is terminated by either Party during the effective period of any reimbursement district agreement entered into pursuant this Agreement,

the City will be responsible for administering such reimbursement district for the time that the district remains effective.

B. Termination for Convenience. Either Party may terminate this Agreement upon providing fifteen (15) day's written notice to the other Party.

9. **Waiver.** WES and City shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

10. **No Third-Party Beneficiaries.** WES and City are the only parties to the Agreement and are the only parties entitled to enforce its terms. Nothing in the Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

[Signature Page Follows]

By their signatures below, the parties to this Agreement agree to the terms, conditions, and content expressed herein.

Water Environment Services

City of Happy Valley, Oregon

Greg Geist Date

Jason A. Tuck Date

Title: Director

Title: City Manager

Approved as to Form:

County Counsel Date